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H.R. 1157, "SANTA YNEZ BAND OF CHUMASH MISSION INDIANS LAND TRANSFER ACT OF 2015"; H.R. 2386, "UNRECOGNIZED SOUTHEAST ALASKA NATIVE COMMUNITIES RECOGNITION AND COMPENSATION ACT"; AND H.R. 2538, "LYTTON RANCHERIA HOMELANDS ACT OF 2015"

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON INDIAN, INSULAR AND ALASKA NATIVE AFFAIRS

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

Wednesday, June 17, 2015

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CONTENTS

LEGISLATIVE HEARING ON H.R. 1157, TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO TAKE LAND INTO TRUST FOR THE BENEFIT OF THE SANTA YNEZ BAND OF CHUMASH MISSION INDIANS, AND FOR OTHER PURPOSES, "SANTA YNEZ BAND OF CHUMASH MISSION INDIANS LAND TRANSFER ACT OF 2015"; H.R. 2386, TO PROVIDE FOR THE RECOGNITION OF CERTAIN NATIVE COMMUNITIES AND THE SETTLEMENT OF CERTAIN CLAIMS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT, AND FOR OTHER PURPOSES, "UNRECOGNIZED SOUTHEAST ALASKA NATIVE COMMUNITIES RECOGNITION AND COMPENSATION ACT"; AND H.R. 2538, TO TAKE LANDS IN SONOMA COUNTY, CALIFORNIA, INTO TRUST AS PART OF THE RESERVATION OF THE LYTTON RANCHERIA OF CALIFORNIA, AND FOR OTHER PURPOSES, "LYTTON RANCHERIA HOMELANDS ACT OF 2015"

Wednesday, June 17, 2015
U.S. House of Representatives
Subcommittee on Indian, Insular and Alaska Native Affairs
Committee on Natural Resources
Washington, DC

The subcommittee met, pursuant to notice, at 11:02 a.m., in room 1324, Longworth House Office Building, Hon. Don Young [Chairman of the Subcommittee] presiding.

Present: Representatives Young, Benishek, Gosar, LaMalfa, Denham, Cook, Radewagen; Ruiz, and Torres.

Also Present: Representatives Huffman and Capps.

Mr. YOUNG. The committee will come to order.

The subcommittee today is hearing testimony on the following bills: H.R. 1157, by Doug LaMalfa, the "Santa Ynez Band of Chumash Mission Indians Land Transfer Act of 2015"; H.R. 2386, by myself, the "Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act"; and H.R. 2538, by Mr. Huffman from California, the "Lytton Rancheria Homelands Act of 2015."

I would also like to mention that two local governments were invited to testify on H.R. 2538, the Sonoma County Board of Supervisors and the Town of Windsor. Both were unable to be here today. I am somewhat concerned we are unable to have an open dialog with all local stakeholders. I would like to continue in an open dialog with the bill's sponsor, as well as any local stakeholders who may be impacted by the bill.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and Ranking Minority Member, Vice Chairman, and designee of the Ranking Member. This will allow us to hear from our witnesses who have traveled to testify on these legislative packages. Therefore, I ask unanimous consent that all Members' opening statements will be made part of the

hearing record if they are submitted to the Subcommittee clerk by 5:00 p.m. today, or at the close of the hearing, whichever comes first.

[No response.]

Mr. YOUNG. Hearing no objection, so ordered. I also ask unanimous consent that the gentlelady from California and the gentleman from California, Mrs. Capps and Mr. Huffman, will be allowed to join us on the dais to be recognized and participate in today's hearing.

[No response.]

Mr. YOUNG. Hearing no objection, so ordered.

STATEMENT OF HON. DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

Mr. YOUNG. As I mentioned, the subcommittee would hear testimony today on three bills.

H.R. 1157 would direct the Secretary of the Interior to place approximately 1,400 acres of land commonly known as the Camp 4 Property into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians with Santa Barbara County. The bill is sponsored by my colleague, Mr. LaMalfa.

The second bill on our agenda, H.R. 2386, will provide redress to Alaska Natives from the communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell. These natives were denied an opportunity to establish villages or urban corporations under the Alaska Native Claims Settlement Act (ANCSA) in 1971. Natives who enrolled in these communities did become at-large shareholders in the regional corporation for Southeast Alaska, but were denied rights to land and local resources that other villages and urban corporations received under ANCSA.

ANCSA prohibits these communities from obtaining an administrative or judicial solution, so legislation is necessary. My bill will recognize the five communities under ANCSA, establish urban corporations for the communities, and provide a process for newly established urban corporations to negotiate with the Department of the Interior for selection of surface estates of Federal lands that would be conveyed to the corporations as compensation—the same amount of land that other native villages received under ANCSA.

The final bill on our agenda today is H.R. 2538, which would direct the Interior Secretary to take into trust approximately 511 acres of non-contiguous fee land owned by the Lytton Rancheria, adjacent to the Town of Windsor in Sonoma County, California.

[The prepared statement of Mr. Young follows:]

PREPARED STATEMENT OF THE HON. DON YOUNG, CHAIRMAN, SUBCOMMITTEE ON INDIAN, INSULAR AND ALASKA NATIVE AFFAIRS

As I have mentioned already, the subcommittee will hear testimony today on three bills: H.R. 1157, H.R. 2386, and H.R. 2538.

H.R. 1157 would direct the Secretary of the Interior to place approximately 1,400 acres of land, commonly known as the Camp 4 property, into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians within Santa Barbara County. The bill is sponsored by my colleague, Mr. LaMalfa.

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ANCSA prohibits these communities from obtaining an administrative or judicial solution, so legislation is necessary.

My bill would recognize the five communities under ANCSA, establish urban corporations for the communities, and provide a process for the newly established urban corporations to negotiate with the Department of the Interior for selecting surface estates of Federal land that would be conveyed to the corporations as compensation—The same amount of land that other native villages received under ANCSA.

The final bill on our agenda today, H.R. 2538, would direct the Interior Secretary to take into trust approximately 511 acres of non-contiguous fee land owned by the Lytton Rancheria adjacent to the town of Windsor in Sonoma County, California.

Mr. YOUNG. Now I will recognize the Ranking Member for his opening statement.

STATEMENT OF THE HON. RAUL RUIZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Dr. RUIZ. Thank you, Mr. Chairman. As always, I want to thank our witnesses here today for taking time to help us understand your views on these bills.

Today we will hear testimony on three bills: H.R. 1157, introduced by our colleague, Rep. LaMalfa, will authorize the Secretary of the Interior to take 1,400 acres of property in the Santa Ynez Valley in California into trust for the Santa Ynez Band of Chumash Indians. The Chumash have longstanding cultural and spiritual ties to the property, which is located just 2 miles from the current Santa Ynez Reservation.

Currently, only about 17 percent of the Tribe's members are able to reside on the reservation, due to the fact that the natural terrain is unsuitable for further housing development. Therefore, the Chumash would like the 1,400-acre property, which they already own, to be taken into trust so that they may construct 143 single family homes for their members. The Tribe has no intention of using these lands for gaming, and the legislation includes a specific provision to the effect.

H.R. 2538, introduced by my friend and colleague, Rep. Huffman, will take approximately 511 acres in Sonoma County, California, into trust as part of the reservation of the Lytton Rancheria. Most of us, especially those Members from California, are aware of the Federal Government's sad history in dealing with the Rancherias, including the unjust termination of their status in the late 1950s. With the exception of a small parcel of land that Congress provided for gaming in San Pablo, the Lyttons have been left essentially landless and without a reservation since 1961. The new land, which the Tribe holds in fee status, will ensure that they will finally have a permanently protected homeland on which they can plan for future generations.

Furthermore, I understand the Tribe has worked closely with Sonoma County to reach an agreement that protects the sovereign rights of the Tribe, while sharing any burdens of development. This

is a shining example of how tribal government-to-government relationships can create positive outcomes for all involved.

The third bill, H.R. 2386, introduced by Chairman Young, will designate five Alaskan communities as urban corporations under the Alaska Native Claims Settlement Act (ANCSA), and grant each corporation 23,040 acres of public lands. While I empathize with the concerns of the villages, I understand that there are serious concerns that enactment of these legislations could have sweeping and harmful impacts to the forest and the economy of southeastern Alaska. I am looking forward to listening to have a deeper understanding, so that we can get to the bottom of this.

In closing, let me again thank our witnesses for appearing, thank the Members who have come to testify, and thank all the staff who have worked very hard on these bills. I look forward to your testimony. Thank you, Mr. Chairman, and I yield back.

[The prepared statement of Dr. Ruiz follows:]

PREPARED STATEMENT OF THE HON. RAUL RUIZ, RANKING MEMBER, SUBCOMMITTEE ON INDIAN, INSULAR AND ALASKA NATIVE AFFAIRS

Thank you Mr. Chairman. As always, I want to thank our witnesses here today for taking time to testify and to help us understand your views on these bills.

Today, we will hear testimony on three bills. H.R. 1157, introduced by our colleague Rep. LaMalfa, will authorize the Secretary of the Interior to take 1,400 acres of property in the Santa Ynez Valley in California into trust for the Santa Ynez Band of Chumash Indians. The Chumash have long-standing cultural and spiritual ties to the property, which is located just 2 miles from the current Santa Ynez Reservation.

Currently, only about 17 percent of the Tribe's members are able to reside on the reservation, due to the fact that the natural terrain is unsuitable for further housing development. Therefore, the Chumash would like the 1,400-acre property to be taken into trust so that they may construct 143 single-family homes for their members. The tribe has no intention of using these lands for gaming, and the legislation includes a specific provision to this effect.

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Furthermore, I understand the Tribe has worked closely with Sonoma County to reach an agreement that protects the sovereign rights of the Tribe, while sharing any burdens of development. This is a shining example of how tribal government-to-government relationships can create positive outcomes for all involved.

The third bill, H.R. 2386, introduced by Chairman Young, will designate five Alaskan communities as "Urban Corporations" under the Alaska Native Claims Settlement Act (ANCSA), and grant each corporation 23,040 acres of public lands. While I empathize with the concerns of the villages, I understand that there are serious concerns that enactment of this legislation could have sweeping and harmful impacts to the forest and the economy of southeastern Alaska.

In closing, let me again thank our witnesses for appearing, and I look forward to your testimony.

Thank you Mr. Chairman, and I yield back.

Mr. YOUNG. Thank you. I would like to recognize the sponsor of the legislation, Mr. LaMalfa, if he has an opening statement.

Mr. LAMALFA. I do.

STATEMENT OF THE HON. DOUG LAMALFA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. LAMALFA. Thank you, Mr. Chairman and committee members, and Mr. Ruiz, thank you for your comments on H.R. 1157. I appreciate the strong support that the committee is showing here today. So thank you.

I am pleased to present H.R. 1157 with, again, 10 cosponsors, 8 Californians and 4 Californians that are members of this committee, subcommittee. This will direct the Secretary of the Interior to take land into trust to enable the Santa Ynez Band of Chumash to address a shortage of housing for their members.

The Tribe, to its credit, has used its own resources to purchase land to meet these housing needs, has a demonstrated presence in the area dating back to the earliest European contact with California Indians, and the Bureau of Indian Affairs recently announced that it would approve the Tribe's application to take the land into trust, administratively. Unfortunately, anti-growth obstructionists have already threatened to stall this process with lawsuits.

The recorded history of the Chumash in the area reaches back to the earliest arrival of Europeans in California. When Spanish explorer Cabrillo landed on the shores of California in 1542, it was the Chumash he encountered. Beginning in the early 1800s, the Chumash became wards of the Spanish mission in Santa Ynez, which included the Camp 4 property, and later the Mexican Governor granted lands to Chumash members that included the Camp 4 property.

The Mission Relief Act of 1891 created a commission which found that the Tribe continued to reside in the Santa Ynez and Camp 4 area, though only 99 acres, mostly unusable creek bed, were ultimately taken into trust. The reservation grew through small additions to about 130 acres today, and is home to 17 percent of tribal members and lineal descendants, lacks any additional space for homes, lacks safe access and escape, especially in emergencies—emergency equipment—and is at the risk of flooding.

Chumash have long worked to provide for the needs of their members without relying upon outside assistance. In the 1960s the Tribe raised funds through a number of creative means to provide the reservation with running water for the first time. In a continuation of this self-sufficiency, the Tribe purchased the Camp 4 property in 2010 with the intent of addressing the housing needs of its members and lineal descendants. Unfortunately, the Chumash's efforts to secure housing for the members—efforts, which must again be noted are undertaken with the Tribe's own resources—have been hindered by anti-growth extremists and frivolous lawsuits.

One local anti-group has gone so far as to question the legitimacy of the Tribe's federally-acknowledged status and its existing reservation, despite records of the Tribe's presence in the area dating back over 470 years. Though the Tribe has repeatedly attempted to work with the County to reach a mutually agreeable arrangement to address any impact to the local governments, a vocal minority of residents have persuaded the portions of the county government to refuse to even negotiate with the Tribe.

Some opponents claim that the trust proposal would reduce the county property tax revenues, ignoring both the fact that the County currently receives just $83,000 from the property annually, and the Tribe's initial offer of $1 million each year to offset any impacts to infrastructure or services.

Other opposition arguments are equally misleading. Claims that the proposal would be too densely developed, which ignores an adjacent housing subdivision, which is actually more dense than the Chumash proposal.

Despite this continued mistreatment, the Tribe strives to be a good neighbor and support local governments, funding multiple full-time firefighter and paramedic positions, and recently a new ladder fire engine.

Again, the Chumash intend only to build housing for their members, and the measure includes a prohibition on gaming in the measure, ensuring that no casino will be built on the property.

When did it become acceptable to obstruct the efforts of historically mistreated groups to provide themselves with housing, one of the most fundamental human needs? Prior congresses and previous presidents have worked to right the generations of wrong committed against American Indians. They would be appalled by the actions of those attempting to prevent the Chumash from meeting their most basic needs of their members on lands that their ancestors occupied for millennia.

Additionally, on a very basic level, I firmly believe that any American family should have the right to build a home for their own purpose on land that they own, within reason.

Mr. Chairman, members of the subcommittee, the Constitution places great responsibility to redress relations with Indian tribes with the Congress. A number of laws require that tribes are ceded the support of the Federal Government for education, health care, and housing. Chumash have strived to address these needs with their own resources, an effort that every member of the subcommittee should support.

While the BIA has indicated that it intends to take the property into trust administratively, opposition groups have already announced their intent, through the courts, to obstruct the administrative process indefinitely. It is imperative that Congress act to ensure that the Tribe is able to address its needs in a timely fashion, and I urge and appreciate your support of this bill. Thank you, I yield back.

Mr. YOUNG. I thank the gentleman and recognize Mr. Huffman to make a statement on his legislation.

STATEMENT OF THE HON. JARED HUFFMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HUFFMAN. Thank you very much, Mr. Chairman. I want to start by thanking you and Ranking Member Ruiz for including the Lytton Rancheria Homelands Act of 2015 in today's hearing. I also want to welcome the Chairperson of the Lytton Rancheria, Margie Mejia, who is here to speak in support of the bill today.

This bill, which I am pleased to introduce with my friend, Congressman Jeff Denham, takes lands already owned by the

Lytton Tribe in Sonoma County into trust for housing and other non-gaming purposes, as part of the Lytton Rancheria Reservation.

In 1958, this tribe, which was federally recognized as a Pomo Indian Tribe, lost its homeland when it was terminated by the Federal Government. The Tribe was restored in 1991 by the courts to federally-recognized status, but the restoration did not include restoring the Tribe's reservation on its ancestral homeland.

Now, I represent lots of tribes, about 30, which I think makes me second only to Chairman Young in terms of the number of tribes. And many of them have land to trust issues in my district. One thing I tell them all so that I can be very consistent is that I need for them to work things out with their local government partners. I cannot introduce bills that are at odds with my local government colleagues.

So, an important condition of my introducing this bill was that the Tribe negotiate agreements with its local government neighbors to address and mitigate potential concerns, including the strong opposition to new casinos in Sonoma County. They have done that. The agreements that have been negotiated—and in some cases there are some processes still underway—will provide certainty for all parties, and provide a model for functional, respectful, productive relationships between local governments and federally-recognized tribes.

This bill ensures that the Lytton Tribe, after many long years, can finally return to a homeland, and it does it in a partnership that works for its local government neighbors. The County of Sonoma and the Tribe have entered into a Memorandum of Agreement on March 10, 2015, and Mr. Chairman, I ask unanimous consent that the resolution signed by the Sonoma County Board of Supervisors be entered into the record.

[No response.]

Mr. YOUNG. Without objection, so ordered.

Mr. HUFFMAN. The Chairperson of the Sonoma County Board of Supervisors, Susan Gorin, has also written a statement for the record, and I would ask unanimous consent that that be entered into the record at this time, too.

[No response.]

Mr. YOUNG. Without objection, so ordered.

Mr. HUFFMAN. I would like to highlight just a few lines from Supervisor Gorin's statement. She says, "The Tribe and the County worked together to accurately identify the off-reservation impacts and, as the project changed over time, to build a framework that met the parties' respective interests."

"Enactment of H.R. 2538 will re-establish an historic homeland for the Tribe in Sonoma County, while setting a course for a constructive intergovernmental relationship and addressing community concerns regarding gaming."

The town of Windsor is still working through a cooperative process with the Tribe, which will include some public proceedings. While that is happening, I am pleased to note that two of the affected local agencies in Windsor have already reached agreements with the Tribe covering their interests.

The Lytton Rancheria has entered a separate MOU with the Windsor Fire Protection District to provide emergency services to the Tribe.

I ask unanimous consent that that agreement be entered into the record, Mr. Chairman.

[No response.]

Mr. YOUNG. Without objection.

Mr. HUFFMAN. Thank you. And the Tribe has entered a Memorandum of Agreement with the Windsor Unified School District to prepare for and mitigate the increase in school-aged children who would move into the proposal tribal housing. I also ask unanimous consent that that agreement be entered into the record.

[No response.]

Mr. YOUNG. How many more are you going to put into the record?

[Laughter.]

Mr. YOUNG. I mean this is one way to have a long statement——

Mr. HUFFMAN. I know, but I am done at that point.

Mr. YOUNG. Without objection.

Mr. HUFFMAN. Mr. Ruiz is showing you pictures of his children, isn't he?

[Laughter.]

Mr. YOUNG. It is a little more interesting.

Mr. HUFFMAN. I hear you.

Last, Mr. Chair—I actually do have one more unanimous consent request.

[Laughter.]

Mr. HUFFMAN. It is that we enter the pictures of Mr. Ruiz's children into the record.

No. In seriousness, it is that we enter the map referenced in my bill into the record.

[No response.]

Mr. YOUNG. Without objection.

[The submissions for the record by Mr. Huffman follow:]

County of Sonoma
State of California

THE WITHIN INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE
ATTEST: MAR 1 0 2015
VERONICA A. FERGUSON, Clerk/Secretary
BY _____ DEPUTY CLERK/ASST SECRETARY

Item Number: 18
Date: March 10, 2015 Resolution Number: 15-0080

4/5 Vote Required

Resolution of the Board of Supervisors of the County of Sonoma, State of California, Authorizing the Chair to Sign a Memorandum of Agreement between the County of Sonoma and the Lytton Rancheria of California Regarding Development of Tribal Homelands in Sonoma County.

Whereas, Sonoma County has a government-to-government relationship with all five federally recognized tribes in the County, respects their tribal sovereignty, and understands the significance of their status as federally recognized tribes; and

Whereas, the County has a long history of advocating for a thorough environmental review and appropriate mitigation of any environmental impacts of tribal development projects that otherwise would be borne by County residents; and

Whereas, Lytton Rancheria of California is a federally-recognized Indian Tribe whose traditional lands lie within Sonoma County; and

Whereas, the Tribe is currently seeking to have lands placed into federal trust status to reestablish a Tribal homeland and to diversify its tribal economy; and

Whereas, the Tribe has proposed that the federal government take into trust 14 parcels consisting of 124.12 acres of land for the development of a residential community, a community center and associated facilities (Residential Development Project); and

Whereas, the Tribe is seeking proposed federal legislation to place into trust approximately 500 acres of land that includes the Residential Development Project; and

Whereas, it is anticipated that the Tribe will in the future seek to place additional lands into federal trust status; and

Whereas, the Tribe and the County have negotiated an agreement to address issues including gaming, potential off-site environmental impacts, and possible mitigation measures regarding the Residential Development Project and other potential Tribal development, consistent with the Tribe's sovereignty and applicable law; and

Whereas, the Agreement addresses the potential impacts of any present and future trust land acquisitions by the federal government for the benefit of the Tribe, while at the same time allowing the Tribe to reestablish its homeland and exercise its authority as a sovereign government; and

Whereas, the Residential Development Project and other potential Tribal development are not County projects and are not subject to the discretionary approval of the County, and, absent this Agreement, the County has limited opportunity to influence mitigation measures or seek compensation for adverse environmental impacts; and

Whereas, the Tribe has reached separate agreements with the Windsor Unified School District and Windsor Fire Protection District, and is negotiating with the Town of Windsor toward an agreement regarding water and sewer services.

Now, Therefore, Be It Resolved that the Chair is hereby authorized to sign the Memorandum of Agreement between the County of Sonoma and the Lytton Rancheria of California labeled Fee to Trust Lands (March 10, 2015).

Be It Further Resolved that entry of the Memorandum of Agreement is not a project subject to the California Environmental Quality Act. By approving, executing and performing the Agreement, the County has not and is not, making any commitment to issue a lease, permit, license, certificate, or other entitlement for use, or develop, construct or improve any facilities or cause any other physical change in the environment.

Be It Further Resolved that the original copy of the Memorandum of Agreement shall be kept by the Clerk of the Board. This document may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100–A, Santa Rosa, California 95403.

Supervisors:

Rabbitt: Aye	Zane: Aye	Gore: Aye	Carrillo: Aye	Gorin: Aye
Ayes: 5	Noes: 0	Absent: 0	Abstain: 0	

So Ordered.

PREPARED STATEMENT OF THE HONORABLE SUSAN GORIN, CHAIRPERSON, SONOMA COUNTY BOARD OF SUPERVISORS, SONOMA COUNTY, CALIFORNIA ON H.R. 2538

On behalf of the Sonoma County Board of Supervisors I would like to thank Chairman Young, Ranking Member Ruiz, and members of the subcommittee for the opportunity to submit this testimony in support of H.R. 2538—the Lytton Rancheria Homelands Act of 2015. My name is Susan Gorin, and I serve as the Chairperson of the Sonoma County Board of Supervisors. This bill, in many ways, exemplifies the type of relationships between tribes and local governments that should be promoted not just in individual legislation but as part of reform of the fee-to-trust process. Several weeks ago my colleague, Sonoma County Supervisor David Rabbitt, testified before this subcommittee on behalf of the California State Association of Counties ("CSAC") at its oversight hearing on "Inadequate Standards for Trust Land Acquisition in the Indian Reorganization Act of 1934."

A central point of CSAC's testimony was that the fee-to-trust process is broken due, in part, to the lack of objective standards. Supervisor Rabbitt urged that perhaps the single most important thing Congress could do to reform the system would be to require that, in any decision to take land into trust, there be a determination by the Department of the Interior, that the off-reservation impacts related to the acquisition are fully mitigated—both for the short and long term. This would be demonstrated either by a voluntary intergovernmental agreement between the tribe and local jurisdictions or a Secretarial determination, after consultation with local governments, that the projects would not have a significant off-reservation impact. As part of his oral testimony Supervisor Rabbitt singled out the Sonoma County -Lytton Rancheria Tribal Agreement ("MOA") as an example of the type of intergovernmental understandings that should be reached on fee-to-trust projects.

Sonoma County is home to five federally-recognized tribes, two of which operate casinos. While the County opposes gaming we nonetheless have intergovernmental agreements with three of the five tribes including the two who operate gambling facilities. We are also in conversation with the other two tribes to work toward memorandums of agreement with respect to pending fee-to-trust requests. We are grateful for the efforts of Congressman Huffman and the leadership of the Lytton Rancheria of California to engage in a fee-to-trust consultation process where we could work together on a government-to-government basis to insure that the Tribe's objectives were met and that the off-reservation impacts were mitigated through a judicially enforceable agreement.

This Agreement is the product of hard work among the parties and started about 8 years ago with the County working with the Lytton Tribe to address what was seen as inadequacies in the Environmental Assessment of its initial trust proposal and community concerns regarding gaming. The Tribe and County worked together to accurately identify the off-reservation impacts and, as the project changed over time, to build a framework that met the parties' respective interests. We believe the Memorandum of Agreement approved by both the Tribe and County, and which is supported in the legislation, is now a model for the type of agreement that should be incentivized as part of much needed fee-to-trust reform.

THE LEGISLATION

From the County's perspective, H.R. 2538 has two critical components. First, Section 5 insures that, in perpetuity, no gaming will be conducted on the lands taken into trust. While the Lytton Tribe did not have an intention to acquire the land for gaming purposes, the legislative provision helps address community and government concern on the issue for the long term. Second, Section 6 recognizes and protects the Memorandum of Agreement from any potential interference from the Department of the Interior. While the Tribe entered into this Agreement as an exercise of its sovereignty, under 25 U.S.C. Section 81, the Department of the Interior reserves the ability to substitute its judgment for the Tribe's and, historically, has not played an active role in facilitating these types of agreements. The legislation helps insure that the mutually beneficial MOA will not be disturbed.

THE MEMORANDUM OF AGREEMENT

As CSAC stated in its prior testimony, having an intergovernmental agreement between a county and a tribe to ensure that off-reservation impacts are addressed is the type of critical demonstration that should be in place before actions are taken to move land into trust—either legislatively or administratively. While the Lytton Tribe and County were in discussions previously, Congressman Huffman played a key role in ensuring that the County (and CSAC) objectives of mitigating off reservations impacts were met. The MOA does this in several important respects by: (1) specifying current development limits and providing for tailored mitigation; (2) setting land use parameters and providing for environmental review of future tribal projects (and a conflict resolution process if there is disagreement over necessary mitigation); (3) prohibiting gaming (which provision is enhanced by the legislative ban); (4) ensuring that applicable building and fire code standards are met; and (5) making the Agreement and compliance with prior NEPA identified mitigation measures judicially enforceable.

One of the unique provisions of the Agreement addresses another key component of CSAC's fee-to-trust reform proposal, specifically: "Changes in use should not be permitted without further reviews, including environmental impacts, and application of relevant procedures and limitations." As stated above, this was accomplished in the Lytton Agreement by establishing some broad parameters for future use and building in a voluntary, tribal driven, environmental review process, the focus of which would be to determine any off-reservation impacts of a proposed project. The MOA then put in place a negotiation and binding dispute resolution process if the parties were not able to agree on appropriate mitigation. This approach respects sovereignty while also insuring that off-reservation impacts are adequately addressed.

CONCLUSION

As part of the 1991 judicial settlement agreement which restored the Lytton Tribe, the County promised to assist it in finding suitable housing and economic development opportunities. Almost 25 years later those promises finally can be kept through the passage of H.R. 2538 and the resulting implementation of the Memorandum of Agreement. Enactment of H.R. 2538 will reestablish an historic homeland for the Tribe in Sonoma County while setting a course for a constructive intergovernmental relationship and addressing community concerns regarding gaming.

Thank you for the opportunity to share these views.

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (hereinafter "Agreement") is made and entered into effective this 22nd day of May, 2012, (hereinafter "Effective Date") by and between the Windsor Fire Protection District, a California Special District authorized by California Health and Safety Code 13800, *et seq*. (hereinafter "Fire District") and the Lytton Rancheria of California aka Lytton Band of Pomo Indians (hereinafter "Tribe") (collectively hereinafter "Parties").

1. Recitals

1.1 WHEREAS, the Tribe is a federally-recognized Indian tribe which occupies land within the Windsor Fire Protection District's geographic boundary that will be held in the future by the federal government, in trust for the benefit of the Tribe ("the Property"); and

1.2 WHEREAS, the Tribe intends to develop a community of residences and related structures on the Property to be occupied and used by Tribal members ("the Project"); and

1.3 WHEREAS, the Fire District provides fire prevention and emergency response services ("Services") on the Property prior to the Federal government's anticipated acquisition of the Property, in trust, for the benefit of the Tribe; and

1.4 WHEREAS, the Parties acknowledge that the development of the Project, and the increase in population and activity that will exist when the Project is completed and the residences and other structures are occupied, will require fire protection and emergency response services; and

1.5 WHEREAS, the Tribe desires to have the Fire District continue to provide Services to the Project; and

1.6 WHEREAS, the Parties recognize that the fire protection and emergency service needs arising from the Project will increase the burden on the Fire District's resources and that public safety is enhanced by cooperation between the Tribe and Fire District to alleviate the increased burden; and

NOW, THEREFORE, the Parties mutually agree on the terms and conditions as follows:

2. Cooperation Agreement

2.1 The Tribe and Fire District desire to cooperate on an inter-governmental basis to promote public safety and provide the Tribe with the opportunity to benefit, on a voluntary, non-jurisdictional basis from the constructive suggestions Fire District personnel may have with respect to fire safety and building issues, and to share expertise to maximize public and emergency personnel safety.

3. Level of Services to be Provided

3.1 The Fire District shall provide the initial response to all emergency incidents on the Project. Nothing in this Agreement is intended to provide any special services to the Tribe that are not provided equally throughout the Fire District's boundaries. The Fire District, with its own resources and with the mutual aid services provided to the Fire District under separate contracts, shall provide the required initial response as outlined in paragraphs 3.2 through 3.6.

3.2 Any reported fire or fire alarm shall have the initial response of one fire engine and any other additional personnel and equipment deemed necessary by the Fire District to effectively mitigate the emergency.

3.3 Any reported medical emergency shall have the initial response of one vehicle appropriately equipped with medical equipment, supplies and communications sufficient to render medical care in accordance with the currently applicable Standard of Care applicable to the Fire District. When required, the Fire District will request resources including additional personnel and equipment and ground and/or air transport to effectively mitigate the emergency.

3.4 Any reported rescue shall have the initial response of one fire engine or rescue squad and any other additional personnel and equipment deemed necessary by the Fire District to effectively mitigate the emergency.

3.5 Any reported hazardous material incident shall have the initial response deemed necessary by the Fire District to assist in containing the emergency in accordance with the applicable hazardous materials response plan, as determined by the Fire District.

3.6 Any reported miscellaneous response shall have a person in a vehicle with appropriate equipment and communications to handle the request.

4. Alleviation of Impact on Fire District

4.1 Impact on Fire District: The Parties recognize that the increased need for Services to the Project will impact the Fire District's daily operations. These impacts include the additional time required of the paid and volunteer personnel responding to calls, the additional wear and tear on equipment, the potential need for additional part or fulltime fire fighting and clerical personnel, as well as the possible need for capital improvements to accommodate these needs.

4.2 Capital Improvement Contribution: The Tribe agrees to make an annual capital contribution of Fifty-Thousand Dollars ($50,000) to be used for equipment purchases.

4.3 Payment of Fees and Taxes: The Tribe agrees to pay the Fire District the following payments that equate in general to the mitigation fees, special taxes and ad valorem property taxes that would be applicable to the Project if the Tribe was not a federally recognized Indian Tribe and the Property was not held by the federal government, in trust, for the benefit of the Tribe. Said fees may be deposited in the Fire District's general fund and may be used for any legitimate Fire District purpose:

4.3.1 The Tribe agrees to pay the Fire District prior to start of construction of each single family house or cottage a fee of $750.00 per unit.

4.3.2 The Tribe agrees to pay the Fire District prior to the start of construction of each multi-family unit a fee of $525.00 per multi-family unit.

4.3.3 The Tribe agrees to pay the Fire District prior to the start of construction a fee of $340.00 per 1,000 square feet of space for the construction of the Community Center and Tribal Retreat.

4.3.4 The Tribe agrees to pay the Fire District pursuant to the following schedule once the Property is taken into trust by the federal government for the benefit of the Tribe:

First day of the first calendar year following the date the Property is taken into trust.	$25,000.00
First day of the second calendar year following the date the Property is taken into trust.	$30,000.00
First day of the third calendar year following the date the Property is taken into trust.	$35,000.00
First day of the fourth calendar year following the date the Property is taken into trust.	$40,000.00
First day of the fifth calendar year following the date the Property is taken into trust.	$45,000.00
First day of the sixth calendar year following the date the Property is taken into trust.	$50,000.00
First day of the seventh, eighth, ninth and tenth calendar year following the date the Property is taken into trust, and each year thereafter during the term of this agreement.	$50,000.00

4.4 Funding for Additional Firefighter: The Tribe will pay the Fire District an annual amount equal to $80,000.00, which is estimated to be the full expense, including benefits, of one full-time paid firefighter. Said funding will only occur beginning the first day of the calendar year following the completion of any building structure on the Property and only if the Town of Windsor has provided public sewer and water to the Project.

4.5 [Intentionally Deleted]

4.6 Unforeseen Costs: The Parties recognize that during the term of this Agreement potential significant unforeseen costs may arise which are not contemplated by this Agreement, including, but not limited to, expenses which would be necessary in order to respond to an unforeseen emergency situation, examples include Acts of God, such as earthquake, or acts of terrorism, among others, that could require specialized equipment such as cranes, excavators, decontamination facilities, specialists or other resources required to provide a level of service above that specified in Section 3 of this Agreement. In such case, the Fire District is not required to incur such expenses or undertake the underlying activity. However, the Fire District may agree to incur such expenses or undertake the underlying activity if the Tribe provides assurance that it will reimburse the Fire District for such expenses, and provides resources it has at its disposal for use by the Fire District to address the situation. Such assurance must be in writing unless the nature of the situation does not provide sufficient time to receive written assurance, in which case the assurance may be provided orally by a representative of the Tribe.

4.7 Accounting for Payments: The Fire District agrees to account for all monies paid to the Fire District pursuant to this Memorandum of Agreement, and shall provide the Tribe an annual accounting for all payments made by the Tribe to the Fire District.

5. Building Design, Modifications and Construction

5.1 Adoption of Current Standards: The Tribe shall comply with the most current adopted editions of the California Fire Code and the current Fire Safety Standards Ordinance in effect at the time of construction for the Project. The Parties acknowledge that the Fire District does not have fire code enforcement authority on the Property under Public Law 280 or any other applicable law, and nothing in this Agreement is intended to or may be interpreted as effecting any change in this area. Nonetheless, as part of government-to-government consultations, the Fire District shall be permitted by the Tribe to inspect and review Tribal plans and the Project, consistent with and pursuant to the terms specified in this Agreement, provided that Fire District inspections or review of residential projects shall take place prior to occupancy.

5.2 Recommendations: Upon the request of the Tribe, the Fire District shall provide recommendations to the Tribe regarding on-going design, modifications, and construction of the Project. In order to protect the safety of Fire District personnel, employees of the Project and members of the Tribe, the Tribe shall provide the Fire District reasonable access to the Project so the Fire District may examine the Project. Pursuant to these examinations, the Fire District shall make recommendations to the Tribe regarding maintaining or improving the safety of the Project. The Parties agree that no liability shall be conferred on either Party based on the fact that any recommendations have or have not been made pursuant to this Section.

5.3 Non-compliance with Codes: If the Fire District believes the Project does not meet the provisions of the California Fire Code and the current Fire Safety Standards Ordinance or is otherwise unsafe, the Fire District shall raise its concerns with the Tribe. If the Tribe fails to address these concerns to the Fire District's satisfaction, the Parties agree that the Fire District may utilize the dispute resolution provisions of Section 8 of this Agreement or unilaterally terminate the Agreement immediately.

6. Adequate Water Supply

6.1 The Tribe agrees to provide adequate water at an adequate pressure to effectively fight fires in and around the Project.

7. Obligations and Immunities

In order to effectuate the implementation of, and ensure the effectiveness of this Agreement, the Parties recognize and agree to the following obligations and immunities:

7.1 Indemnification: Each Party agrees to maintain, defend (with counsel satisfactory to the indemnified Party), protect, hold harmless, and release the other, its officers, members, agents, representatives, volunteers and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees and witness costs) arising from or in connection with, or caused by, any act, omission, or negligence of such Party, including its members, officers, agents, representatives, volunteers or employees. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying Party under workers' compensation acts, disability benefit acts, or other employee benefit acts. This indemnification obligation shall be subject to the limitations of the Tribe's waiver of sovereign immunity described in Section 7.3.

7.2 Insurance: The Tribe agrees to obtain and maintain, at its sole cost, a policy of commercial general liability insurance with limits not less than Two Million Dollars ($2,000,000) per occurrence and in the aggregate covering bodily injury and property damage, including excess medical coverage. The policy shall contain endorsements for coverage, which includes but is not limited to: premises liability, general liability, personal injury, blanket contractual coverage and contractual indemnity. The policy shall be endorsed to name the Fire District, its officers, officials, employees and volunteers as an additional insured. The Fire District shall cooperate in providing any information reasonably required to obtain such insurance. The Tribe shall provide a copy of the policy to the Fire District for review and approval and timely provide proof of such insurance on an annual basis. Any dispute over the existence of a duty to indemnify or defend shall be resolved through the dispute resolution process set forth below in the Agreement. No cancellation or change of coverage of insured shall be effective until thirty (30) days written notice has been given to the Fire District.

7.3 Limited Waiver of Sovereign Immunity. The Tribe agrees to be bound by the terms of this Agreement. The Parties acknowledge that the Tribe is a federally-recognized Indian tribe and, as such, it possesses sovereign immunity from suit. Nothing in this Agreement is or shall be deemed to be a waiver of the Tribe's sovereign immunity from suit, which immunity is expressly asserted, except that Tribe agrees to waive its immunity for the limited and sole purpose of effectuating this Agreement and enforcing the dispute resolution provisions described in Section 8. The Tribe's limited waiver of its sovereign immunity as provided herein in favor of the Fire Department extends only to an arbitration, action to compel arbitration and action to confirm or enforce arbitration awards by the Fire Department for the Tribe's breach of this Agreement. The Tribe does not waive its sovereign immunity for the benefit of any third party.

7.4 Fire District Obligations and Immunities. The Fire District agrees to be bound by the terms of this Agreement. In order to be so bound, the Fire District agrees to waive its immunity for the limited purposes of effectuating this Agreement and enforcing the dispute resolution provisions described in Section 8. However, notwithstanding any other provision in this Agreement, the Parties agree that the Fire District, in response to any claim or action, may assert all of the statutory immunities and related statutes of California with regard to fire protection services, rescue services, emergency medical services, hazardous material emergency response services, ambulance services and any other service relating to the protection of lives and property and other matters covered by this Agreement.

8. Dispute Resolution/Mediation/Judicial Review

8.1 Meet and Confer. Prior to pursuing any arbitration, each Party shall, whenever possible, attempt to resolve any grievances, complaints or disputes that are brought to its attention by the other Party. Each Party shall notify the other Party in writing of any material dissatisfaction with the other Party's performance at that Party's address of record. Within ten (10) days of receipt of such notice, unless the problem has been resolved, the Parties shall meet and confer in good faith to determine what remedial action, if any is necessary; provided that if the complaining Party believes that the problem identified creates a significant, imminent threat to public health or safety or to the Property and Project, the complaining Party may proceed directly to judicial review as provided in Paragraph 8.5 below.

8.2 Arbitration. In the event of any dispute between the Parties arising under this Agreement, such dispute shall be submitted to mandatory binding arbitration pursuant to the Commercial Rules of American Arbitration Association. Each Party shall initially pay its own arbitration costs and expenses, but the arbitrator may, in its discretion, include such costs and expenses, together with reasonable attorney's fees, as part of the award to the prevailing Party.

8.3 Judicial Review. Any award of the arbitrators may be submitted for enforcement to a court of competent jurisdiction located in Sonoma County, California. Such enforcement actions shall be brought in the United States District Court for the Northern District of California, the United States Court of Appeals for the Ninth Circuit, and the United States Supreme Court. If the United States District Court for the Northern District of California determines that it lacks jurisdiction, the Parties shall be entitled to file in the appropriate trial court for the State of California. The awards of any arbitration if brought in Federal Court shall be governed by the Federal Arbitration Act codified in Title 9 of the United States Code except as the same may be changed or limited by the provisions of this Agreement. The appropriate Court shall have the authority not only to confirm any order or decision of the arbitrator, but to issue all orders necessary, including, but not limited to, the issuance of temporary or permanent injunctions to prohibit the Parties from engaging in conduct that violates the provisions of this Agreement; compelling the Parties to comply with the provisions of this Agreement; requiring the Parties to pay over any income, or profits subject to attachment or any decision or order of any arbitrator selected under this Agreement.

8.4. Judicial Remedies. Judicial remedies are specifically limited to the following:

8.4.1. The enforcement of an award of money damages by arbitration pursuant to this Agreement; provided that the arbitrator(s) and/or Court shall have no authority or jurisdiction to execute against its San Pablo Lytton Casino operations and to award the prevailing Party the costs of arbitration, court costs to enforce the arbitration decision and legal fees incurred during arbitration and any subsequent court proceedings to enforce the arbitration decision.

8.4.2. The enforcement of a determination by an arbitrator pursuant to this Agreement that mandates either Party to specifically perform any obligation under this Agreement (other than an obligation to pay money which is provided for in Paragraph 8.4.1 above).

8.5 Expedited Procedure for Significant, Imminent Threats to Public Safety: If the Fire District or the Tribe reasonably believes that the other Party's conduct in violation of this Agreement or applicable law has caused or will cause a significant, imminent threat to public health or safety or to the Property or the Project, resolution of which cannot be delayed for the time periods otherwise specified in this section, the complaining Party may proceed directly to arbitration as set forth in Paragraph 8.2 above, without reference to the Meet and Confer process set forth in Paragraph 8.1 above and seek immediate equitable relief. At least twenty-four (24) hours before proceeding in this manner, the complaining Party shall provide to the other a written request for correction and notice of intent to exercise its rights under this Paragraph 8.5, setting out the legal and or factual basis for its reasonable belief that there is a significant, imminent threat to public health or safety or to the Property or Project.

9. Miscellaneous Provisions

9.1 Notices: Notices and service of process shall be sent to the contacts listed below or to such other person or address as shall be provided in writing by the party. Notice or correspondence provided pursuant to Section 8 of this Agreement shall be by Certified Mail, return receipt requested, to the addressees below. All other correspondence under this Agreement, including but not limited to submission of payments, shall be provided by personal delivery or first class mail to the first addressees specified below for each Party. Notice or payment provided by Certified Mail or first class mail pursuant to this Paragraph shall be deemed given upon deposit in the United States mail, postage prepaid or otherwise at the time of actual delivery. Notice of changes in any of the addressees below is to be given by giving notice pursuant to this Paragraph.

FOR THE TRIBE:	FOR THE FIRE DISTRICT:
Lytton Rancheria of California Margie Mejia Tribal Chairperson 437 Aviation Blvd. Santa Rosa, CA 95403	Windsor Fire Protection District Pat McDowell Board President P.O. Box 530 Windsor, CA 95492
Lawrence R. Stidham Stidham Law Offices 210 5th Street Ramona, CA 92065	William J. Arnone, Jr. Esq. Merrill, Arnone & Jones, LLP 3554 Round Barn Blvd., Suite 303 Santa Rosa, CA 95403

9.2 Applicable Law: This Agreement is not intended to nullify or reduce the effect of application of any applicable law.

9.3 Amendments: This Agreement may be modified or amended only by mutual and written agreement of the Parties. The Parties may amend this Agreement by mutual written consent at any time.

9.4 Third Party Beneficiaries: This Agreement is not intended to, and shall not be construed to, create any rights in third parties.

9.5 No Waiver of Breach: No covenant, term or condition or the breach thereof of this Agreement shall be deemed waived, except by written consent, and any waiver of the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition.

9.6 Assignment and Delegation: Neither Party shall assign, delegate or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect unless and until the other Party shall have so consented.

9.7 Force Majeure: In the event of a forced delay in the performance by either Party of obligations under this Agreement due to acts of God or of the public enemy, acts or inaction of the other Party or its employees or agents, strikes, lockouts, unusual delay in transportation, unavailability of materials, fires (other than those

fires intended to be covered by the Services), floods, catastrophic weather or other natural disasters, epidemics, riots, insurrection, war or unavoidable casualties, the time for performance of such obligations shall be extended for the period of the forced delay.

9.8 Termination: This Agreement shall remain in effect until at least January 1, 2022, and may not be terminated by either Party without the other Party's written consent, unless in accordance with the terms of this Agreement. This Agreement shall continue in effect after January 1, 2022, until terminated by mutual agreement or until either Party provides six (6) months written notice indicating its desire to terminate the Agreement. Any disputes regarding payments to the Fire District incurred prior to the termination date shall be resolved through the dispute resolution process outlined in Section 8 above.

9.9 Suspension of Services: If the Tribe fails to make a payment in accordance with the requirements of this Agreement, then, upon ten (10) days written notice to the Tribe, the Fire District may suspend Services and any other obligations to the Tribe under this Agreement until such payment is made.

9.10 Change in Use of Property: The Parties acknowledge that the terms of relative duties and obligations in this agreement are based upon the Project being the development of a residential community on the Property. The Parties agree that, should the use of the Property change from residential to another use, this Agreement shall be reviewed and changed as appropriate.

9.11 Final Agreement: This Agreement is intended both as the final expression of the agreement between the Parties with respect to the included terms and as a complete and exclusive statement of the terms of the agreement and supersedes all prior written and oral agreements, if any, with respect to the subject matter hereof. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by the Parties.

9.12 Authorized Representatives: The persons executing this Agreement on behalf of the Parties hereto affirmatively represent that each has the requisite legal authority to enter into this Agreement on behalf of their respective Party and to bind their respective Party to the terms and conditions of this Agreement. The undersigned representative of each Party agrees to provide written proof of such authority to the other Party prior to, or at the time of, execution of this Agreement. The persons executing this Agreement on behalf of their respective Parties understand that both Parties are relying on these representations in entering into this Agreement.

9.13 Successors in Interest: The terms of this Agreement will be binding on all successors in interest to each Party.

9.14 Severability and Construction: To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of applicable law. The Parties covenant and agree that in the event that any Provision of this Agreement is determined to be invalid, void, or unenforceable, such determination shall not affect the validity of any other provision of this Agreement or the remaining portion of any provisions. In the event of a dispute between the Parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement will be deemed to have been drafted by the Parties in equal parts so that no presumption or inferences concerning its terms or interpretation may be construed against one Party over the other to this Agreement.

9.15 Governing Law: This Agreement shall be construed according to applicable federal and California substantive law to the extent not inconsistent with the express provisions of this Agreement, unless federal law as to the Tribe or the Fire District, or California law as to the Fire District, prohibits such Parties from abiding by such express provision, in which case the provision will be deemed to be invalid and resolved, if possible, under the severability provisions in Section 9.15. Notwithstanding the foregoing California rules of construction shall be applied in interpreting this Agreement.

9.16 Hazardous Materials: The Tribe agrees to maintain information on hazardous materials used or stored on the Project, including, at a minimum, information on the types, quantities and location of use or storage of such materials. Such information shall be available to the Fire District upon request and shall be maintained so that it is immediately available in case of emergency. The Parties acknowledge that, in the event of an emergency involving Hazardous Materials, the Fire District's responsibility is limited to clearing the impacted area, if possible, and

containing the hazard, if possible; the Tribe is solely responsible for the clean-up, transportation and disposal of any hazardous material.

9.17 Mutual Good Faith: Throughout the term of this Agreement, the Parties agree to exercise good faith and to observe the covenants contained herein.

WHEREFORE, IN WITNESS THEREOF, the Parties hereby execute and enter into this Agreement with the intent to be bound thereby through their authorized representatives whose signatures are affixed below.

LYTTON RANCHERIA OF CALIFORNIA
(aka LYTTON BAND OF POMO INDIANS)

By: _____
Margie Mejia
Tribal Chairperson

Date: 1/25/2012

WINDSOR FIRE PROTECTION DISTRICT

By: _____ ~~Patriek McDowell~~ John Nelson
Chairman of the Board of Directors

Date: 3/28/2012

WINDSOR UNIFIED SCHOOL DISTRICT,
WINDSOR, CA,
JUNE 3, 2015.

Hon. JARED HUFFMAN,
1630 Longworth House Office Building,
Washington, DC 20515.

Re: "Lytton Rancheria Homelands Act of 2015"

DEAR REPRESENTATIVE HUFFMAN:

On behalf of the Windsor Unified School District (District), Board of Trustees please accept this letter in support of the introduction and enactment of H.R. 2538, the "Lytton Rancheria Homelands Act of 2015."

This past fall, the District has entered into an Agreement with Lytton Rancheria (the Tribe) applicable to its proposed project to build housing, governmental and community facilities, for its members on land to be acquired in trust for the Tribe within the District's geographic boundaries. Under the Agreement, the Tribe agreed to donate to the District an amount equal to the developer fees that would be afforded to the District if the Tribe's project were a standard residential development.

The District supports the acquisition of the lands in trust for the Tribe and continues to work with the Tribe for the betterment of our community.

Thank you for your consideration.

Sincerely,

STEVEN L. JORGENSEN,
Superintendent.

Lytton Fee Owned Property to be Taken into Trust

SOURCE: Sonoma County General Plan 2020, updated 2012; USDA aerial photograph, 6/13/2013; AES, 5/6/2015

Mr. HUFFMAN. Thank you. As evidenced by the documents that I have just referenced, the Tribe has worked very hard to reach agreements and address potential concerns from its neighbors and local governments. I am very thankful for those efforts. An agreement like this that works for all of the affected parties, in my opinion, is far preferable to everyone involved than the black box of the BIA process.

So, I am pleased to introduce this bill, along with my colleague, Jeff Denham, and I would like to welcome Chairman Mejia again. We look forward to your testimony.

[The prepared statement of Mr. Huffman follows:]

PREPARED STATEMENT OF THE HON. JARED HUFFMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

I want to start by thanking Chairman Young and Ranking Member Ruiz for including the Lytton Rancheria Homeland Act of 2015 in today's hearing.

I would also like to welcome Chairperson of the Lytton Rancheria Margie Mejia who is here to speak in support of this bill today.

The Lytton Rancheria Homelands Act of 2015 (H.R. 2538), which I introduced with my friend Congressman Denham, takes lands already owned by the Lytton Rancheria in Sonoma County into trust for housing and other non-gaming purposes as part of the Lytton Rancheria reservation.

In 1958, the Lytton Rancheria, a federally-recognized Pomo Indian tribe, lost its homeland when it was terminated by the Federal Government. In 1991, the Tribe was restored by the courts to federally-recognized status, but the restoration did not include restoring the Tribe's reservation on its ancestral homeland.

An important condition of my introducing this bill was that the Tribe negotiate agreements with its local government neighbors to address and mitigate potential concerns, including the strong opposition to new casinos in Sonoma County.

The arrangements that have been negotiated—and in some cases are continuing to be finalized—provide certainty for all parties, and provide a model for functional, respectful, productive relationships between local governments and federally-recognized tribes.

This bill ensures that the Lytton Tribe, after many long years, can finally return to a homeland—and it does it in partnership with the Tribe's local government neighbors.

The County of Sonoma and the Lytton Rancheria entered into a Memorandum of Agreement on March 10, 2015 and I ask unanimous consent that the resolution signed by the Board of Supervisors of the County of Sonoma be entered into the record.

The Chairperson of the Sonoma County Board of Supervisors, Susan Gorin, has also written a statement for the record, I ask unanimous consent that it be entered into the record at this time.

I would like to highlight a few lines from Supervisor Gorin's statement for the subcommittee:

"The Tribe and County worked together to accurately identify the off-reservation impacts and, as the project changed over time, to build a framework that met the parties' respective interests."

"Enactment of H.R. 2538 will reestablish an historic homeland for the Tribe in Sonoma County while setting a course for a constructive intergovernmental relationship and addressing community concerns regarding gaming."

The town of Windsor is still working cooperatively with the Tribe, which will include their public process. While that public process is proceeding, I am pleased to note that two of the affected local agencies have already reached agreements with the Tribe covering their shared interests.

- Lytton Rancheria has entered into a Memorandum of Agreement with the Windsor Fire Protection District to provide emergency services to tribal members located in the proposed tribal housing area. I ask unanimous consent that the agreement be entered into the record.

- Lytton Rancheria has entered into a Memorandum of Agreement with the Windsor Unified School District to prepare for and mitigate an increase in school-aged children who would move into the proposed tribal housing. I ask unanimous consent that a letter of support for H.R. 2538 from the Windsor Unified School District be entered into the record.

Last, I would like to ask unanimous consent to enter into the record the map referenced in my bill. This map can be found on my Web site and it is my understanding that it has been on file for public review with the town of Windsor since May 28, 2015.

As evidenced by the documents I have just referenced and included in the record, the Tribe has worked hard to reach agreements and address potential concerns from its neighbors and local governments, and I am very thankful for those efforts.

Again I would like to welcome Chairperson Margie Mejia. We look forward to hearing your testimony.

Mr. YOUNG. Mr. Huffman, a little latitude. Thank you for your kind gesture of the bottle of wine, you know, celebrating my new bride. Thank you.

So this guy knows how to do the job, you know. I can tell you right now. He is up there with—thank you.

Mr. HUFFMAN. You are welcome. Congratulations.

Mr. YOUNG. Thank you.

Mrs. Capps, you are recognized to comment on the legislation. It affects your district.

STATEMENT OF THE HON. LOIS CAPPS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mrs. CAPPS. Thank you, Mr. Chairman, for giving me the opportunity to provide a statement on H.R. 1157 today. I want to congratulate you, as well, in a personal way. And I also do not have any unanimous consent requests.

[Laughter.]

Mrs. CAPPS. But I also have three constituents who are witnesses today, and I want to welcome them to this hearing.

H.R. 1157 is a bill that would take 1,400 acres of land known as Camp 4 in the Santa Ynez Valley into trust for the Santa Ynez Band of Chumash Mission Indians. The Santa Ynez Valley, which is in my congressional district, has a long history of limited development and there has long been a concerted effort to retain the undeveloped, rural nature of the valley.

As the earliest inhabitants of the valley, the Chumash certainly share the community's commitment to protecting and preserving the land and the unique qualities of this area. I have had the pleasure of working with Chairman Armenta and the Tribe on many occasions over the years, including on their wonderful Tribal Health Clinic and Education Center. It is clear the Tribe has legitimate needs for more housing for its members, a need that must be addressed. That is why I have worked many years to try to bring the Tribe, local community members, and county leadership together to work out the differences and find a way forward.

While I know this has proven to be a difficult process, I sincerely believe that there can still be, and there is, a path forward that meets both the needs of the Tribe and addresses the concerns of the county and local residents. But let me be clear: H.R. 1157 is not that path, and I oppose it for several reasons.

First, the issues at the core of this matter are fundamentally local. This is ultimately about local housing, zoning, and land use. These are issues best resolved by county and municipal officials in consultation with local residents and the Tribe, not in Washington, DC by Members of Congress who don't even live near the area. These are issues that have always been worked out locally, because they involve very localized knowledge of the community and its residents. No matter how well-intentioned, without the support of the local community, we here in Congress, in my opinion, should not intervene in this local issue.

Second, the bill is unnecessary because Camp 4 has already been taken into trust. While I think we can all agree that the BIA fee-to-trust process certainly has its flaws, this is the process that has been put into place to resolve issues like Camp 4, and that process is moving forward. After roughly a year-and-a-half of review, the BIA approved the Tribe's application last year on Christmas Eve. The process may not be moving as fast as the Tribe would prefer, but the application was approved in a timely manner and appeals will be considered under new rules that expedite the process. Legislative action such as H.R. 1157 should be for circumstances when the BIA process is clearly failing; this is not one of those circumstances.

Third, with Camp 4 already taken into trust, the only real effect of this bill would be to cut off consideration of the appeals of the BIA decision currently being considered by Assistant Secretary Kevin Washburn. Again, the BIA appeals process may not move as quickly as the Tribe would like, but eliminating the appeals process less than 6 months after it began hardly seems appropriate. Agree or disagree, my constituents have the right to be heard and provide input on this process. This bill would prematurely and needlessly cut off this right.

Finally, I am deeply troubled by the precedent being set by the consideration of this bill, and I think my colleagues should be troubled, as well. The land taken into trust by H.R. 1157, as well as the entirety of Santa Barbara County, is solely within California's 24th congressional district, which I happen to represent. The land has no connection to the districts represented by Mr. LaMalfa, by anyone else on this committee, or by any other Member of the House. It is my congressional district. I alone have been elected by the people of the 24th District to represent them here in Congress.

It is also worth noting that our former Republican colleague, Elton Gallegly, who also represented the Santa Ynez Valley in Congress for many years, did not support Federal legislation on this issue either.

I would hope that my colleagues would take a minute to consider this and the door being opened by today's hearing and the committee's consideration of H.R. 1157. Consider the fact that this committee is moving forward on legislation that is opposed by both local and Federal representatives of the communities impacted by this bill. Consider also that the outcome of this legislation could have a profound impact on the future of the Santa Ynez Valley, yet valley residents do not have the opportunity to hold the bill's sponsors accountable at the ballot box. I find this profoundly troubling, and I urge my colleagues to consider this carefully.

Once again, Mr. Chairman, I strongly oppose H.R. 1157. I urge you not to advance this bill, and I yield back the remainder of my time.

[The prepared statement of Mrs. Capps follows:]

PREPARED STATEMENT OF THE HON. LOIS CAPPS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Thank you Mr. Chairman for giving me the opportunity to provide a statement on H.R. 1157 today.

I'd also like to welcome my three constituents testifying on the panel.

H.R. 1157 is a bill that would take 1,400 acres of land known as "Camp 4" in the Santa Ynez Valley into trust for the Santa Ynez Band of Chumash Mission Indians.

The Santa Ynez Valley, which is in my congressional district, has a long history of limited development and there has long been a concerted effort to retain the undeveloped, rural nature of the valley.

As the earliest inhabitants of the valley, the Chumash certainly share the community's commitment to protecting and preserving the land and the unique qualities of the area. I have had the pleasure of working with Chairman Armenta and the Tribe on many occasions over the years, including on the wonderful Tribal Health Clinic and Education Center. It is clear that the Tribe has a legitimate need for more housing for its members—a need that must be addressed. And that is why I have worked to try to bring the Tribe, local community members, and county leadership together to work out their differences and find a way forward.

While I know this has proven to be a difficult process, I sincerely believe that there can still be a path forward that both meets the needs of the Tribe and addresses the concerns of the county and local residents. But let me be clear: H.R. 1157 is not that path, and I oppose it for several reasons.

First, the issues at the core of this matter are fundamentally local. This is ultimately about local housing, zoning, and land use. These are issues best resolved by county and municipal officials in consultation with local residents and the Tribe, not in Washington, DC by Members of Congress who don't even live near the area. These are issues that have always been worked out locally because they involve very localized knowledge of the community and its residents. No matter how well-intentioned, without the support of the local community, we here in Congress should not intervene in this local issue.

Second, the bill is unnecessary because Camp 4 has already been taken into trust. While I think we can all agree that the BIA fee-to-trust process certainly has its flaws, this is the process that has been put in place to resolve issues like Camp 4 and that process is moving forward. After roughly a year-and-a-half of review, the BIA approved the Tribe's application last year on Christmas Eve.

The process may not be moving as fast as the Tribe would prefer, but the application was approved in a timely manner and the appeals will be considered under new rules that expedite the process. Legislative actions such as H.R. 1157 should be for circumstances when the BIA process is clearly failing; this is not one of those circumstances.

Third, with Camp 4 already taken into trust, the only real effect of this bill would be to cut off consideration of the appeals of the BIA decision currently being considered by Assistant Secretary Kevin Washburn. Again, the BIA appeals process may not move as quickly as the Tribe would like, but eliminating the appeals process less than 6 months after it began hardly seems appropriate. Agree or disagree, my constituents have a right to be heard and provide input on this process. This bill would prematurely and needlessly cut off this right.

And finally, I am deeply troubled by the precedent being set by the consideration of this bill, and I think my colleagues should be troubled as well. The land taken into trust by H.R. 1157, as well as the entirety of Santa Barbara County, is solely within California's 24th Congressional District, which I represent. This land has no connection to the districts represented by Mr. LaMalfa, by anyone on this committee, or by any other Member of this House. It is in my congressional district; I alone have been elected by the people of the 24th District to represent them here in Congress.

And it's also worth noting that our former Republican colleague Elton Gallegly, who also represented the Santa Ynez Valley in Congress for many years, did not support Federal legislation on this issue either. I would hope that my colleagues will take a moment to consider this and the door being opened by today's hearing and the committee's consideration of H.R. 1157. Consider the fact that this committee

is moving forward on legislation that is opposed by both the local and Federal representatives of the communities impacted by this bill. Consider also that the outcome of this legislation could have a profound impact on the future of the Santa Ynez Valley, yet valley residents do not have the opportunity to hold the bill's sponsors accountable at the ballot box. I find this profoundly troubling, and I urge my colleagues to consider this carefully.

Once again, Mr. Chairman, I strongly oppose H.R. 1157 and urge you not to advance this bill.

Mr. YOUNG. I thank the lady for her statement. Now I will introduce our witnesses.

Mr. Mike Black—again, Mr. Black, welcome. I am not going to be mean yet, so just keep that in mind. And you are accompanied by Michael Nedd, Assistant Director, Energy, Minerals, and Realty Management, Bureau of Land Management. The Honorable Vincent Armenta, Chairman of the Ynez Chumash Mission Indians, Santa Ynez, California. Ms. Mona Miyasato, Executive Officer, County of Santa Barbara, on behalf of the County of Santa Barbara Board of Supervisors. Mr. Steve Lavagnino, County Supervisor, Fifth District, Santa Barbara County Board of Supervisors, Santa Maria, California. Mr. Leo Barlow, Representative of the Community of Wrangell, Alaska, on behalf of the Southeast Alaska Corporation. And the Honorable Ms. Mejia, Chairperson of the Lytton Rancheria, Santa Rosa, California.

Mr. Black, before you proceed, the committee has received the Administration's testimony an hour before the hearing. I would suggest you hire a little bit more efficient clerks, because we, as a committee, do not appreciate 1 hour. The rules are 24 hours at the minimum. I just want you to know that. I have had trouble with every administration and the Department of the Interior—just not your administration—not recognizing the rules of the committee, that you have to follow because we have to have the testimony ahead of time so we can review what you are going to say, what you are going to do—defend it or support it. And I think it is inappropriate to have the committee get it an hour before the hearing. Just want you to know it doesn't make me happy.

So, Mr. Black, you are up.

I think all of you know you have 5 minutes. And I will, very frankly—I am pretty lenient in some cases, if you are making sense. And that is—you have to keep that in mind.

[Laughter.]

Mr. YOUNG. So, we will try to be as generous as we can, and then the questions.

Mr. Black, you are up.

STATEMENT OF MICHAEL BLACK, DIRECTOR, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR, WASHINGTON, DC

Mr. BLACK. Chairman Young, Ranking Member Ruiz, and members of the subcommittee, I am accompanied today, as you stated, by Michael Nedd, Assistant Director for the Bureau of Land Management. I want to thank you for the opportunity to present the Department of the Interior's views on H.R. 1157, a bill to authorize the Secretary of the Interior to place certain lands located

in the unincorporated area of the County of Santa Barbara, California into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians; H.R. 2538, a bill taking certain lands located in the County of Sonoma, California into trust for the benefit of the Lytton Rancheria and for other purposes; and H.R. 2386, the "Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act."

Taking land into trust is one of the most important functions that the Department undertakes on the behalf of Indian tribes. Homelands are essential to the health, safety, and welfare of tribal communities. Thus, the Administration has made the restoration of tribal homelands a priority, and is committed to this effort through the Department's acquisition of land in trust for tribes, where appropriate.

H.R. 1157 authorizes the Secretary for the Department to place approximately five parcels of land into trust for the Tribe. H.R. 1157 clearly provides a legal description for the lands that will be held in trust for the Tribe, and once the land is placed in trust for the Tribe, removes any restrictions on the property, pursuant to California State law, but also provides that the legislation does not terminate any right-of-way, right-of-use issued, granted, or permitted prior to the date of the enactment of this legislation.

H.R. 1157 also includes a restriction that the Tribe may not conduct any gaming activities on any land taken into trust pursuant to this Act.

The Department supports mandatory fee-to-trust legislation, but takes no position on H.R. 1157, given that the five parcels identified in the bill are currently on appeal to the Assistant Secretary for Indian Affairs.

H.R. 2538 will place approximately 500 acres of land into trust for the Tribe. H.R. 2538 references a map titled, "Lytton Fee Owned Property to be Taken Into Trust," dated May 1, 2015, for the lands that will be held in trust for the Tribe. Under H.R. 2538, once the land is in trust for the Tribe, valid existing rights, contracts, and management agreements related to the easements and right-of-ways will remain.

H.R. 2538 also includes a restriction that the Tribe may not conduct any gaming activities on any land taken into trust pursuant to this Act.

The Department recommends adding language into H.R. 2538 that does allow the BIA to examine the land for any environmental issues prior to such lands going into trust. The Department supports H.R. 2538 with some amendments.

H.R. 2386 would amend ANCSA to authorize the five Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as urban corporations, entitling each, upon incorporation, to receive one township of land, or approximately 23,040 acres, the local areas of historical, cultural, traditional, and economic importance. The bill provides that the establishment of these new urban corporations does not affect any entitlement to land of any native corporation established before this Act being proposed.

Although the Department opposes H.R. 2386, we would be glad to work with the sponsor and committees to address issues with

the proposed legislation, as well as problems with eligible existing ANCSA communities.

Mr. Nedd and I would be happy to answer any questions that you may have. Thank you again.

[The prepared statement of Mr. Black follows:]

PREPARED STATEMENT OF MICHAEL BLACK, DIRECTOR OF THE BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR ON H.R. 1157, H.R. 2386, AND H.R. 2538

H.R. 1157, "Santa Ynez Band of Chumash Mission Indians Land Transfer Act of 2015"

Chairman Young, Ranking Member Ruiz, and members of the subcommittee, my name is Michael Black and I am the Director for the Bureau of Indian Affairs. Thank you for the opportunity to present the Department of the Interior's (Department) views on H.R. 1157, a bill to authorize the Secretary of the Interior to place certain lands located in the unincorporated area of the County of Santa Barbara, California into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians (Tribe), and for other purposes.

Taking land into trust is one of the most important functions that the Department undertakes on behalf of Indian tribes. Homelands are essential to the health, safety, and welfare of the tribal communities. Thus, this Administration has made the restoration of tribal homelands a priority. This Administration is committed to the restoration of tribal homelands, through the Department's acquisition of lands in trust for tribes, where appropriate. The Department supports mandatory fee-to-trust legislation but takes no position on H.R. 1157 given that the five parcels identified in the H.R. 1157 are currently on appeal to the Assistant Secretary for Indian Affairs at the Department.

H.R. 1157 authorizes the Secretary for the Department to place approximately five parcels of land into trust for the Tribe. H.R. 1157 clearly provides the legal description for the lands that will be held in trust for the Tribe. H.R. 1157, once the land is placed in trust for the Tribe, removes any restrictions on the property pursuant to California state law, but also provides that the legislation does not terminate any right-of-way, or right-of-use issued, granted or permitted prior to the date of the enactment of this legislation. H.R. 1157 also includes a restriction that the Tribe may not conduct any gaming activities on any land taken into trust pursuant to this Act.

Thank you for the opportunity to present the Department's views on this legislation. I will be happy to answer any questions the subcommittee may have.

H.R. 2386, "Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act"

Thank you for the opportunity to provide the views of the Department of the Interior on H.R. 2386, the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act. H.R. 2386 would amend the Alaska Native Claims Settlement Act (ANCSA) to authorize the five Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as urban corporations, entitling each to receive land in southeastern Alaska.

The Department supports the goals of fulfilling ANCSA entitlements as soon as possible so that Alaska Native corporations may each have the full economic benefits of completed land entitlements. In recent years, the Bureau of Land Management (BLM) has maintained an accelerated pace in fulfilling entitlements pursuant to the ANCSA. To date, the BLM has fulfilled 95 percent of ANCSA and state of Alaska entitlements by interim conveyance, tentative approval, or patent. The BLM is committed to improving the Alaska land transfer process wherever opportunities exist. For example, we have proposed to establish a faster, more accurate, and more cost-effective method for land conveyances required by the Alaska Statehood Act, though we continue to wait for meaningful engagement and feedback from the state of Alaska.

Background

ANCSA effected a final settlement of the aboriginal claims of Native Americans in Alaska through payment of $962.5 million and conveyances of more than 44 million acres of Federal land. Although it was impossible for Congress to have effected

total parity among all villages in the state, there was a distinction made in ANCSA between the villages in the Southeast and those located elsewhere. Prior to the passage of ANCSA, natives in the Southeast received payments from the United States pursuant to court cases in the 1950s and late 1960s, for the taking of their aboriginal lands. Because natives in the Sealaska region benefited from an additional cash settlement under ANCSA, the eligible communities received less acreage than their counterparts elsewhere in Alaska. Congress specifically named the villages in the Southeast that were to be recognized in ANCSA; these five communities were not among those named. Despite this, the five communities applied to receive benefits under ANCSA and were determined to be ineligible. Three of the five appealed their status and were denied.

Notwithstanding the ineligibility of some communities for corporate status under ANCSA, all natives potentially receive benefits from the ANCSA settlement. Alaska Natives in these five communities are enrolled as at-large shareholders in the Sealaska Corporation. The enrolled members of the five communities comprise more than 20 percent of the enrolled membership of the Sealaska Corporation, and as such, have received benefits from the original ANCSA settlement.

H.R. 2386

H.R. 2386 would amend ANCSA to authorize the five Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as urban corporations, entitling each, upon incorporation, to receive one township of land (23,040 acres) from local areas of historical, cultural, traditional and economic importance. The bill provides that establishment of these new urban corporations does not affect any entitlement to land of any native corporation established before this Act being proposed.

Recognition of these five communities as provided in the bill, despite the history and requirements of ANCSA, risks setting a precedent for other similar communities to seek to overturn administrative finality and re-open their status determinations. Establishing this de facto new process would contravene the purposes of ANCSA and could create a continual land transfer cycle in Alaska.

The Department also has concerns with specific provisions in the bill. For example, in Section 6, new ANCSA Section 43 contains very open-ended selection language. The provision does not require the new urban corporations to take lands for "the township or townships in which all or part of the native village is located," as provided for in ANCSA. Instead, it requires only that the lands be "local areas of historical, cultural, traditional, and economic importance to Alaska Natives" from the villages. The bill also appears to require the Secretary, in consultation with the Secretary of Commerce and representatives from Sealaska Corporation, to select and offer lands to the new urban corporations.

Although the Department does not support H.R. 2386, we would be glad to work with the sponsor and the committee to address these issues as well as problems with eligible existing ANCSA communities. For instance, rather than simply addressing the perceived inequities of five communities formerly deemed to be ineligible under ANCSA, the Department would like to work with the committee to find solutions to the existing eligible communities that have no remaining administrative remedies, such as the villages of Nagamut, Canyon Village and Kaktovik.

Conclusion

The BLM's Alaska Land Transfer program is now in a late stage of implementation and the Department strongly supports the equitable and expeditious completion of the remaining Alaska Native entitlements under ANCSA and other applicable authorities. H.R. 2386 would delay the Department's goal of sunsetting the Alaska Land Transfer Program, which is in its final stages. The Department believes that the completion of the remaining entitlements under ANCSA and the Statehood Act is necessary to equitably resolve the remaining claims and fulfill an existing congressional mandate.

H.R. 2538, "Lytton Rancheria Homelands Act of 2015"

Chairman Young, Ranking Member Ruiz, and members of the subcommittee, my name is Michael Black and I am the Director of the Bureau of Indian Affairs. Thank you for the opportunity to present the Department of the Interior's (Department) views on H.R. 2538, a bill taking certain lands located in the County of Sonoma, California into trust for the benefit of the Lytton Rancheria of California (Tribe), and for other purposes.

Taking land into trust is one of the most important functions that the Department undertakes on behalf of Indian tribes. Homelands are essential to the health, safety,

and welfare of the tribal communities. Thus, this Administration has made the restoration of tribal homelands a priority. This Administration is committed to the restoration of tribal homelands, through the Department's acquisition of lands in trust for tribes, where appropriate. The Department supports H.R. 2538, with some amendments.

H.R. 2538 will place approximately 511 acres of land into trust for the Tribe. H.R. 2538 references a map titled "Lytton Fee Owned Property to be Taken into Trust" dated May 1, 2015 that identifies the lands to be transferred into trust for the Tribe. Under H.R. 2538, once the land is in trust for the Tribe, valid existing rights, contracts, and management agreements related to easements and rights-of-way will remain. H.R. 2538 includes a restriction that the Tribe may not conduct any gaming activities on any land taken into trust pursuant to this Act.

H.R. 2538 also references a Memorandum of Agreement between the County of Sonoma and the Tribe. The MOA affects not only the trust acquisition covered in the legislation but also future acquisitions and subjects the Tribe to the land use/zoning authority of the County for most of the property identified in the legislation for the term of the MOA, 22 years, and imposes negotiated restrictions on the Tribe's residential development.

This Administration is supportive of legislative efforts to take land into trust for tribes. The Administration is also supportive of counties and tribes negotiating agreements to resolve their differences. The decision to compromise principles of tribal sovereignty is itself an exercise of sovereignty and tribal self-governance. In that spirit, the Administration defers to the decision made by the Tribe.

Thank you for the opportunity to present the Department's views on this legislation. I will be happy to answer any questions the subcommittee may have.

Mr. YOUNG. Thank you, Mr. Black. We have now—let me see. Vincent, you are up.

STATEMENT OF VINCENT ARMENTA, CHAIRMAN, SANTA YNEZ BAND OF CHUMASH MISSION INDIANS, SANTA YNEZ, CALIFORNIA

Mr. ARMENTA. Good afternoon, Chairman Young, Ranking Member Ruiz, and members of the subcommittee. My name is Vincent Armenta, and I am the Tribal Chairman for the Santa Ynez Band of Chumash Indians. On behalf of our tribe, first I would like to thank you today for allowing me to testify on H.R. 1157.

The Santa Ynez Band of Chumash Indians is located in the Santa Ynez Reservation in Santa Barbara County, California. Our tribe was federally recognized in 1901, and remains the only federally-recognized Chumash Tribe in the Nation. The Chumash aboriginal territory lies along the California coast, between Malibu and Paso Robles, as well as the Northern Channel Islands. Their area was first settled about 13,000 years ago, and at one time the total population of the Chumash was approximately 18,000.

Our tribe was eventually relegated to a 99-acre reservation. For many years, very few tribal members lived on the reservation. Running water, electricity were not available to our residents. We did not even have indoor plumbing until the 1960s.

In the 1970s, the Tribe was able to secure funding for assistance from the Department of Housing and Urban Development to build the first modern homes on our reservation. Those homes are now nearly 50 years old, and insufficient to meet the needs of our people. In many instances, several generations live under one roof. Still, only about 17 percent of our members and descendants live on our reservation.

The HUD homes from the 1970s may have met the basic health and safety standards, but fire and rescue equipment commonly used today would be hard-pressed to service many of these homes as the roads are too narrow and the population density is too great. Unfortunately, building additional homes on our existing reservation is not possible. The majority of our reservation land is already developed and the remaining is in a creek bed or on a sloped hillside.

Knowing the housing shortage will only worsen, our tribe purchased 1,400 acres of our ancestral land in 2010, known as Camp 4. Camp 4 sits just a few miles east of our reservation. The Department of the Interior has confirmed that Camp 4 is part of our ancestral land. Shortly after purchasing Camp 4, we submitted a draft cooperative agreement to the Santa Barbara County Board of Supervisors, hoping to negotiate a payment in lieu of taxes in that agreement. Even though the land was currently only generating $81,000 a year in property taxes, our tribe offered $1 million a year for a period of 10 years.

For more than 2 years, the Santa Barbara County Board of Supervisors ignored our offer. On August 20, 2013, the Board voted 3 to 2 not to enter into a government-to-government dialog with our tribe, ending any hope we had of resolving this at the local level. The official position of the Board to this day is that tribes are not governments and, therefore, the County need not negotiate with them. One of the supervisors even went so far as to call for the end of tribal sovereignty.

In spite of the Board's decisions, our tribal government continues to build partnerships in our community. For instance, we recently completed a cooperative agreement with both the sheriff's department and the Santa Barbara County fire department. We are paying for law enforcement, not just on the reservation, but for the entire valley. We are providing two additional positions at two separate fire stations in our community, for the purpose of protection of our tribal members, as well as community members.

These agreements demonstrate that the Tribe is willing to work with the County in a positive and constructive manner, if we are given the opportunity to do so. Sadly, relations between the Tribe and the Board of Supervisors and its anti-tribal allies remain toxic. The Board and its allies blocked us from acquiring 6.9 acres of trust land for nearly 14 years. After lawsuits from anti-tribal groups, the BIA finally placed the land into trust last year.

We are willing to work with the County to resolve these concerns. For instance, we address fears of gaming, which is in H.R. 1157.

As witnessed by our lengthy but successful efforts to bring 6.9 acres into trust through the administrative process, we will eventually prevail on this issue. There are only two variables, which are timing and restrictions on land use.

Mr. Chairman and Members, thank you again for the opportunity to testify today.

[The prepared statement of Mr. Armenta follows:]

PREPARED STATEMENT OF VINCENT ARMENTA, TRIBAL CHAIRMAN, SANTA YNEZ BAND OF CHUMASH INDIANS ON H.R. 1157

Good afternoon Chairman Young, Ranking Member Ruiz and members of the subcommittee. My name is Vincent Armenta and I am the Tribal Chairman of the Santa Ynez Band of Chumash Indians.

On behalf of our tribe, thank you for the opportunity to testify today about H.R. 1157, the Santa Ynez Band of Chumash Mission Indians Land Transfer Act of 2015.

I. Brief History of the Santa Ynez Band of Chumash Indians/California Tribes

The Santa Ynez Band of Chumash Indians is located on the Santa Ynez Reservation in Santa Barbara County, California. Our tribe was federally recognized in 1901 and remains the only federally-recognized Chumash Tribe in the Nation.

The Chumash original territory lies along the California coast, between Malibu and Paso Robles, as well as on the Northern Channel Islands. The area was first settled about 13,000 years ago and at one time, the Chumash had a total population of approximately 18,000 people.

II. Need for Housing

Our tribe was eventually relegated to a 99-acre reservation. For many years, very few tribal members lived on our reservation. Running water and electricity were not made available to our residents.

Our source of water had been declared unfit for human consumption. Tribal members living on the reservation at that time had to walk to the creek to fill buckets of water for use in their homes. Toilets were open pits that sometimes overflowed into the creek, the very creek that supplied our members with drinking water.

While it took a few years and many fundraisers, our reservation eventually secured running water and we finally had indoor plumbing in the late 1960s.

In the 1970s, our tribe was able to secure funding and assistance from the Department of Housing and Urban Development to build the first modern homes on our reservation. Those homes are now nearly 50 years old and are insufficient to meet the needs of our people. In many instances, multiple generations live under one roof. Still, only about 17 percent of our tribal members and lineal descendants live on our reservation.

While the subdivision planned by HUD in the 1970s may have met basic health and safety standards, fire and rescue equipment commonly used today would be hard pressed to service many of the homes in our current development as the roads are too narrow and the population density is too great.

Unfortunately, building additional homes on our existing reservation is not possible. The majority of our reservation land is already developed and the remaining is in a creek bed or sloped areas that are impossible to develop.

Knowing the housing shortage would only worsen, our tribe purchased 1,400 acres of ancestral land in 2010—land known as "Camp 4." One of our primary goals in purchasing the land is to build homes on it for our tribal members and their families.

Camp 4 sits just a few miles east of our reservation. By official action, the Department of Interior has confirmed that Camp 4 is part of our ancestral lands.

III. Initial Offer to County of SB, Refusal to Meet and Rejection

Shortly after purchasing the Camp 4 property, we submitted a Draft Cooperative Agreement to the Santa Barbara County Board of Supervisors, hoping to negotiate a payment in lieu of property taxes agreement. Even though the land was currently only generating $81,000 in property taxes per year, we offered the County a million dollars annually, for 10 years.

For more than 2 years, the Board ignored our offer.

On August 20, 2013, the Board voted 3–2 *not* to enter into a government-to-government dialog, ending any hope we had of resolving this at the local level.

The official position of the Board to this day is that tribes are not governments and therefore the County need not negotiate with them. One supervisor even went so far as to call for the end of tribal sovereignty.

Unfortunately, the majority of the Santa Barbara County Board of Supervisors simply lack a basic understanding of tribes as governments—an elementary recognition required to work effectively with tribal nations.

IV. Meetings and Agreements with Sheriff and Fire Department

Notwithstanding the perpetual opposition from the County, our tribal government continues to build partnerships with those in the community who are willing to work with us.

For instance, we recently completed cooperative agreements with our local Sheriff and Fire Departments. Through these agreements, Chumash is now paying for law enforcement and fire safety services not only on our reservation, but also mitigating off-reservation impacts and improving emergency services across the entire Santa Ynez Valley.

As members of the subcommittee will recall, just last month, the California State Association of Counties testified in support of a number of reforms for the land into trust process, including providing for a legal framework to encourage tribes to reach intergovernmental mitigation agreements. Mr. Chairman, it is not the tribes that need encouragement, but rather, it is the counties. It is shameful that one of CSAC's leading members, Santa Barbara County, can't be troubled to take the advice of its own membership association.

These agreements demonstrate that we are willing to work with the County in a positive and constructive manner, if we are just given the opportunity to do so.

We have also built solid relationships in the community with various organizations. Through our Santa Ynez Band of Chumash Indians Foundation, our tribe has played a significant role in the philanthropic arena, donating millions of dollars to a wide variety of non-profit organizations and schools. In addition to funding a myriad of community projects that benefit the entire community, our tribe also provides volunteers for a number of non-profit organization projects through our volunteer organization, Team Chumash.

A few of our Foundation's recent donations include donating iPads to school children in an effort to expand technology access throughout the largest elementary school in the Lompoc school district, donating $10,000 to the Legal Aid Foundation of Santa Barbara County to help the organization continue its efforts to reduce homelessness and donating annually to the Santa Ynez Valley People Helping People organization to help with emergency and short-term social services.

For the past decade, our tribe has also hosted its annual Chumash Charity Golf Classic where the proceeds from the tournament go to well-deserving local charities. In 2014, the largest amount in the tournament's history was raised—$150,000—bringing the total amount raised through the tournament for local nonprofit organizations to $1 million.

Through our Foundation, our tribe has donated more than $19 million to hundreds of groups, organizations and schools in the community and across the Nation as part of our tribe's long-standing tradition of giving.

V. Conclusion

Sadly, relations between the Tribe and the Board of Supervisors and its anti-tribal allies remain toxic.

The Board and its allies blocked us from acquiring just 6.9 acres of trust land for nearly 14 years, as lawsuit after lawsuit was filed then dismissed. The BIA's decision to finally acquire the land last year came after a process that cost both the Tribe and our neighbors millions.

But now that the playbook has been written, we are witnessing the same game play out. The County's allies have once again filed frivolous lawsuits to stop the Tribe at every turn. And with housing pressures growing, we are left with passage of H.R. 1157 as the only viable solution.

Regardless of how we have been treated, the Santa Ynez Chumash still stand ready to work with the County to resolve concerns. For instance, we have heard fears about additional gaming—that's why the legislation takes gaming off the table. And if there are other reasonable requests, we remain open to finally opening a true government-to-government dialog with the County of Santa Barbara.

As witnessed by our lengthy but successful efforts to bring the 6.9 acre parcel into trust via the administrative process, we will eventually prevail on this issue. The only two variables are timing and restrictions on land use. Your efforts and support of this legislation can ensure that the land is put in use in a timely manner with reasonable restrictions; or conversely, the land will eventually be brought into trust administratively with no restrictions on its use or additional financial compensation to the County.

Thank you for the opportunity to testify today. I welcome any questions.

Mr. YOUNG. Thank you, Vincent.

Mona Miyasato?
Ms. MIYASATO. Yes.
Mr. YOUNG. Mona, you are up.

STATEMENT OF MONA MIYASATO, EXECUTIVE OFFICER, COUNTY OF SANTA BARBARA, ON BEHALF OF THE COUNTY OF SANTA BARBARA BOARD OF SUPERVISORS, SANTA BARBARA, CALIFORNIA

Ms. MIYASATO. Thank you, Subcommittee Chairman Young, Ranking Member Ruiz, and members of the subcommittee, for this opportunity to testify today. My name is Mona Miyasato, and I am the County Executive Officer for the County of Santa Barbara, California. This testimony is submitted on behalf of the County of Santa Barbara, and reflects the policy position of the Board of Supervisors.

The County has adopted a legislative policy that recognizes the role and unique interests of tribes, states, and counties to protect all members of our community, and to provide services and infrastructure benefits to all.

H.R. 1157 would take into trust 1,427 acres in the Santa Ynez Valley, as you have been told. But Camp 4 is over 10 times larger than the existing 138-acre Chumash Reservation, and this would have substantial negative impacts on our community.

The County of Santa Barbara respectfully opposes H.R. 1157 for the following reasons: the County has a pending appeal of the decision by the BIA to accept Camp 4 into trust. The purpose of the administrative appeal process is to address concerns of local entities and residents. These concerns include loss of tax revenue, lack of compliance with NEPA, insufficient environmental mitigations and conflicts with local land use regulations. H.R. 1157 would essentially shortcut this administrative process, and prevent the County and its residents from addressing these concerns. And finally, H.R. 1157 does not rule out any use of the property other than gaming, while the BIA's administrative process proposes residential use and has been more focused.

Therefore, the County of Santa Barbara requests that, instead of enacting H.R. 1157, Congress allow the regular administrative process on the appeal to proceed.

I would like to spend a few minutes now to detail some of the areas of concern we have.

The County of Santa Barbara submitted a timely appeal of the Christmas Eve, December 24, 2014 BIA decision to accept Camp 4 into trust. In the appeal, the County thoroughly discusses the process shortcomings, including the need for appropriate weighing of factors detailed in the Code of Federal Regulations, as well as a lack of adequate environmental review, including the need for an environmental impact statement, rather than the environmental assessment, and appropriate mitigation. This bill would bypass that appeal review.

Also, the County questions the need for and purpose to take the land into trust, as the present BIA regulations provide inadequate guidance as to what constitutes legitimate tribal need for a trust land acquisition. Given the stated need for only a fraction of the acreage requested to be taken into trust for housing, the County

questions why the 1,400 acres needs to be taken into trust at this time.

In addition, the County projected that it would lose up to $311 million in tax revenue over a 50-year period if the land is taken into trust and developed. The County provides major public services to the Camp 4 area, including law enforcement, fire protection, emergency medical response, roadway access and maintenance. And there will be no property tax compensation or funding offset required by the County for these services if Camp 4 is taken into trust into perpetuity.

Also, this permanently exempts it from community land use processes. The project alternatives, including a proposal for 143 residences and over 12,000 square feet of tribal facility with parking for 250 cars and possibly up to 800 visitors a week to the valley, is inconsistent with the surrounding uses. The development contravenes rural area policy countywide and is incompatible with the County's General Plan, Santa Ynez Community Plan, and our land use regulations.

Further, the property has been preserved for agricultural use by an Ag. preserve contract, a Williamson Act Contract, since 1971. In August of 2013, the Tribe submitted an application for non-renewal, meaning that it will expire in December 2022.

Another primary area of concern relates to environmental impacts, such as groundwater resources. Santa Barbara County and the rest of California are in severe drought conditions. The environmental assessment acknowledged the past designation of an overdraft in the groundwater basin in which Camp 4 resides, but did not analyze the potential for Camp 4 to exacerbate that overdraft. The environmental document did not analyze the long-term water supply.

Finally, the County supports the BIA's administrative process, although we believe there should be an effort to reform that process. We strongly support the efforts of the California State Association of Counties to achieve comprehensive fee-to-trust reform and improve the role of local government in this process.

In conclusion, I respectfully urge Members to reject H.R. 1157. As stated, this would bypass the administrative appeal process, whose purpose is to address concerns of our local residents and entities, and those concerns include loss of tax revenue, lack of compliance with NEPA, insufficient environmental mitigation and conflicts with our local land use regulations in perpetuity.

Furthermore, I respectfully request that reforms to the existing process be considered in the future to improve local government involvement, which can reduce significant impacts on communities and reduce controversy, delay, and existing distrust in the process.

Thank you very much for considering my testimony this morning, and allowing me to appear before you today. Thank you.

[The prepared statement of Ms. Miyasato follows:]

PREPARED STATEMENT OF MONA MIYASATO, SANTA BARBARA COUNTY EXECUTIVE OFFICER ON BEHALF OF THE COUNTY OF SANTA BARBARA BOARD OF SUPERVISORS ON H.R. 1157

Thank you Subcommittee Chairman Young, Ranking Member Ruiz, and members of the subcommittee for the opportunity to testify today. My name is Mona Miyasato and I am the County Executive Officer for the County of Santa Barbara. This

testimony is submitted on behalf of County of Santa Barbara and reflects the adopted policy position of the County Board of Supervisors.

The County of Santa Barbara has adopted a legislative policy which recognizes the role and unique interests of tribes, states, counties and other local government to protect all members of their communities and to provide governmental services and infrastructure benefits to all. In addition, the County recognizes and respects the tribal right of self-governance, to provide for tribal members and to preserve traditional tribal culture and heritage. In similar fashion, the County recognizes and promotes its own self-governance to provide for the health, safety and general welfare of all residents of our communities.

H.R. 1157 would take into trust five parcels of land totaling approximately 1,427.78 acres in the Santa Ynez Valley (commonly known as "Camp 4") for the benefit of the Santa Ynez Band of Chumash Indians. Camp 4 is over 10 times larger than the existing 138-acre Chumash Reservation. This would have substantial, negative impacts on our community.

The County of Santa Barbara respectfully opposes H.R. 1157 for the following reasons:

- The County has a pending appeal of the decision by the Bureau of Indian Affairs to accept Camp 4 into trust and the BIA's related decisions under the National Environmental Policy Act (NEPA);
- The purpose of the Code of Federal Regulations (CFR) administrative appeal process is to address concerns of local entities and residents, including loss of tax revenue, lack of compliance with NEPA, insufficient environmental mitigation and conflicts with local land use regulations;
- H.R. 1157 would short-circuit this administrative process and prevent the County and its residents from addressing these concerns; and
- H.R. 1157 does not rule out any use of the property other than gaming, while the BIA's administrative process proposes residential use and is more focused.

The County of Santa Barbara therefore requests that instead of enacting H.R. 1157, Congress allow its regular administrative appeal process to proceed.

PENDING APPEAL

On December 24, 2014, the BIA issued a Notice of Decision to accept Camp 4 into trust. The County of Santa Barbara submitted its appeal on January 21, 2015. In that appeal, the County discusses the shortcomings of the BIA's review, which must include appropriate weighing of eight required factors detailed in the CFR and adequate environmental review and mitigation. Those eight factors are attached to this testimony. This bill would bypass that appeal review.

A few areas of significant concern with the fee-to-trust decision include the following:

- Need for the Land and Purposes of Use: The present BIA regulations provide inadequate guidance as to what constitutes legitimate tribal need for a trust land acquisition. Two alternatives have been identified in the fee-to-trust application, providing housing for tribal members, the stated purpose of the Fee-to-Trust application. One alternative requires 793 acres for residential homes and infrastructure; the other requires 194 acres for homes and infrastructure. Given the stated need for only a fraction of the acreage requested to be taken into trust for housing, the County has questioned why the 1,400 acres need to be taken into trust.

  Also, in the second alternative, 30 acres would be dedicated for Tribal Facilities including a Community Center with Banquet Hall/Exhibition Facility, resulting in potentially 400 visitors per event, with two events per week, or up to 800 visitors to the Valley each week. The analysis by the BIA did not discuss the facility structure or the purposes for which it will be used and therefore, could not fully assess the land use conflicts.

  Impact on County Tax Rolls: The County projected in FY 2012/13 that it would lose up to $311 million in tax revenue over a 50-year period if the land is taken into trust and developed. In addition, the County would lose mitigation fees required to be paid by developers for provision of transportation improvements, parks, fire protection and other public services. The BIA decision regarded the tax loss as insignificant given the financial contributions by the Tribe to the community. However, the County provides major public services to the Camp 4 area, including law enforcement, fire protection, emergency medical response and roadway access and maintenance. The proposed

development will increase the number of residents and employees in the area that use county parks, schools, roads and public services. The need for county services would expand yet the County would not be able to collect property taxes or other special assessments that would pay for those additional services.

Jurisdictional and Land Use Conflicts: The development of 143 residences and over 12,000 square feet of tribal facility with parking for 250 cars would constitute a change in the current land use that is inconsistent with the surrounding uses. Essentially, it would be an urban development in the middle of a rural area. Given that the zoning is currently AG-II100 (agriculture with a minimum parcel size of 100 acres), housing development at 1 residence per acre, or 1 residence per 5 acres, would result in potentially increasing density 20 to 100 times what is currently allowed. The development contravenes rural area policy countywide and is incompatible with the County's General Plan, Santa Ynez Community Plan and land use regulations. Further, the property has been preserved for agricultural use by a Williamson Act Contract since at least 1971. In August of 2013 the Tribe submitted an application for non-renewal meaning the contract will expire on December 31, 2022. On July 1, 2013 the Tribe passed Resolution 931 which requires compliance with the existing Williamson Act Contact until the contract expires.

The BIA noted that the Chumash Tribe has consistently been cooperative with local government and service providers to mitigate adverse effects and cited agreements with County Fire and Sheriff's Office. Those agreements, however, relate to *services on the existing reservation* and the ongoing impacts to that development, not Camp 4. The County is grateful to the Chumash Tribe for their willingness to work collaboratively to achieve these service agreements. In the Fire Department agreement, however, the Tribe's agreement to provide an aerial ladder truck for its planned 12-story tower Casino expansion only came after the County requested it as mitigation to the project; it was not included as part of the Tribe's environmental evaluation or mitigation. In this case, the identification of mitigation by the county fire personnel resulted in a better outcome for the Tribe and community members. Other issues raised by the County regarding the casino expansion, however, were not addressed by the Tribe.

- Compliance with NEPA and Environmental Mitigation: The fee-to-trust acquisition raises substantial questions about the environmental impacts of the action as to its context and intensity. The County identified a need for the environmental document to be elevated from the current level proposed by the BIA of an Environmental Assessment (EA) to an Environmental Impact Statement (EIS).

The loss of agricultural land is of great significance to the state, region and locality as agriculture provides economic and environmental benefits to the public. The development will bring more residents, employees and visitors to a largely agricultural area and change the land use. This change implicates unique geographic considerations such as conversion of prime agricultural farmland, threatens land use and regulatory requirements imposed for the protection of the environment and the community, impacts public health and safety concerns, such as the demand for services, groundwater and wastewater resources, air quality, and traffic control, impacts threatened or endangered species habitat and other unique habitat involving oak trees, and creates controversy as shown by the debate among many knowledgeable, interested parties as to the environmental effects of the project.

A particular area of concern relates to Groundwater Resources. Santa Barbara County and the state of California are in severe drought conditions. The Environmental Assessment acknowledged the past designation of an overdraft in the Santa Ynez Uplands Groundwater Basin but did not analyze the potential for Camp 4 to exacerbate that overdraft. The EA did not analyze long-term water supply.

In addition, mitigation measures proposed to date do not sufficiently minimize or avoid environmental impacts or adequately protect against significant adverse impacts of the proposed action. The measures suggested in the EA do not provide the detail and discussion required to support a finding of no significant impact.

BYPASS OF ADMINISTRATIVE PROCESS THROUGH H.R. 1157

H.R. 1157 would short-circuit the administrative appeal process and prevent the County and its residents from addressing the concerns just described. Another example of this relates to the identical real property descriptions in both H.R. 1157 and the BIA's Notice of Decision, dated December 24, 2014. These are unclear and do not adequately address the property interests of the County or nearby residents in roadway rights-of-way. In its pending appeals with the Interior Board of Indian Appeals, the County has raised this question about County rights of way throughout Camp 4 and whether those rights of way are held in fee or easement. The appeal process provides an opportunity to resolve these legal questions. If H.R. 1157 is enacted, though, neither the County nor any county resident would have the opportunity to clarify their property interests in those roads.

BROADNESS OF H.R. 1157 AND CONFLICTS WITH BIA PROCESS

H.R. 1157 does not rule out any use of the property other than gaming. The legislative approach is broader than the BIA's process. The existing process, with its combination of evaluation of factors specified in 25 CFR Sections 151.10 and 151.11 and NEPA, provides some comfort to the community of the proposal, given what was studied and allowed per the BIA process. The legislation only rules out gambling but does not specify other uses.

REFORMS TO BIA PROCESS ARE NEEDED

While the County supports the BIA's administrative process, we also strongly support the efforts of the California State Association of Counties, and their extensive work on behalf of all California counties, to achieve comprehensive fee-to-trust reform and improve the role of local government in the fee-to-trust process. Therefore, it is respectfully requested that the following reforms of the existing process be considered.

- Often local governments are afforded limited, and sometimes late, notice of a pending trust land application. In our case, the Notice of Decision was issued on Christmas Eve, December 24, 2014. Our staff resorted to checking the BIA's Web site daily to ensure notice given the 30-day appeal period. The notice first came to our attention as a courtesy from Chumash Tribe members, followed by mailed notices in subsequent days from the BIA. Improved notice is needed to ensure adequate time for meaningful input, as well as reasonably detailed information early on to affected local governments, as well as the public, about the proposed uses. Broad notice of trust applications should allow at least 90 days to respond, compared to the current 30-day requirement.
- There is a lack of standards of any objective criteria in fee-to-trust decisions, which has been criticized by local governments. For example, the BIA requests only minimal information about the impacts of such acquisitions on local communities and trust land decisions are not governed by a requirement to balance the benefit to the Tribe against the impact to the local community. As a result, there are significant impacts on communities with consequent controversy, delay and distrust of the process.
- Regulations should provide adequate guidance as to what constitutes legitimate tribal need for trust acquisitions. There is now the stipulation that the land is necessary to facilitate tribal self-determination, economic development or Indian housing. These standards can be met by virtually any trust land request.
- Under Part 151, the BIA does not mention input by third parties even though individuals or communities as a whole may experience negative impacts, although it will accept and review such comments. BIA accepts comments only from the affected state and local government with legal jurisdiction over the land and, from those parties, only on the narrow question of tax revenue loss, government services currently provided to the subject parcels and zoning conflicts. The reviews, therefore, do not provide real consultation or an adequate representation of the consequences of the decision.

CONCLUSION

In conclusion, I respectfully urge Members to reject H.R. 1157. As stated, this would bypass the administrative appeal process, whose purpose is to address concerns of local entities and residents, including loss of tax revenue, lack of compliance

with NEPA, insufficient environmental mitigation and conflicts with local land use regulations. Also, H.R. 1157 does not rule out any use of the property other than gaming, while the BIA's administrative process is less broad, focusing on the uses of the site, namely residential housing. Furthermore, I respectfully request that reforms to the existing process be considered in the future to improve local government involvement, which can reduce significant impacts on communities and reduce controversy, delay and distrust of the process.

Thank you for considering my testimony. Should you have questions regarding my testimony, the policy position of the Santa Barbara County Board of Supervisors, or if I can be of further assistance, please feel free to contact me.

Attachments: 25 CFR Sections 151.10, 151.11 and Maps

ATTACHMENTS

TITLE 25—INDIANS

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER H—LAND AND WATER

PART 151—LAND ACQUISITIONS

§ 151.10 On-reservation acquisitions.

Upon receipt of a written request to have lands taken in trust, the Secretary will notify the state and local governments having regulatory jurisdiction over the land to be acquired, unless the acquisition is mandated by legislation. The notice will inform the state or local government that each will be given 30 days in which to provide written comments as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments. If the state or local government responds within a 30-day period, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply and/or request that the Secretary issue a decision. The Secretary will consider the following criteria in evaluating requests for the acquisition of land in trust status when the land is located within or contiguous to an Indian reservation, and the acquisition is not mandated:

(a) The existence of statutory authority for the acquisition and any limitations contained in such authority;

(b) The need of the individual Indian or the tribe for additional land;

(c) The purposes for which the land will be used;

(d) If the land is to be acquired for an individual Indian, the amount of trust or restricted land already owned by or for that individual and the degree to which he needs assistance in handling his affairs;

(e) If the land to be acquired is in unrestricted fee status, the impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls;

(f) Jurisdictional problems and potential conflicts of land use which may arise; and

(g) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

(h) The extent to which the applicant has provided information that allows the Secretary to comply with 516 DM 6, Appendix 4, National Environmental Policy Act Revised Implementing Procedures, and 602 DM 2, Land Acquisitions: Hazardous Substances Determinations. (For copies, write to the Department of the Interior, Bureau of Indian Affairs, Branch of Environmental Services, 1849 C Street NW, Room 4525 MIB, Washington, DC 20240.)

§ 151.11 Off-reservation acquisitions.

The Secretary shall consider the following requirements in evaluating tribal requests for the acquisition of lands in trust status, when the land is located outside of and noncontiguous to the tribe's reservation, and the acquisition is not mandated:

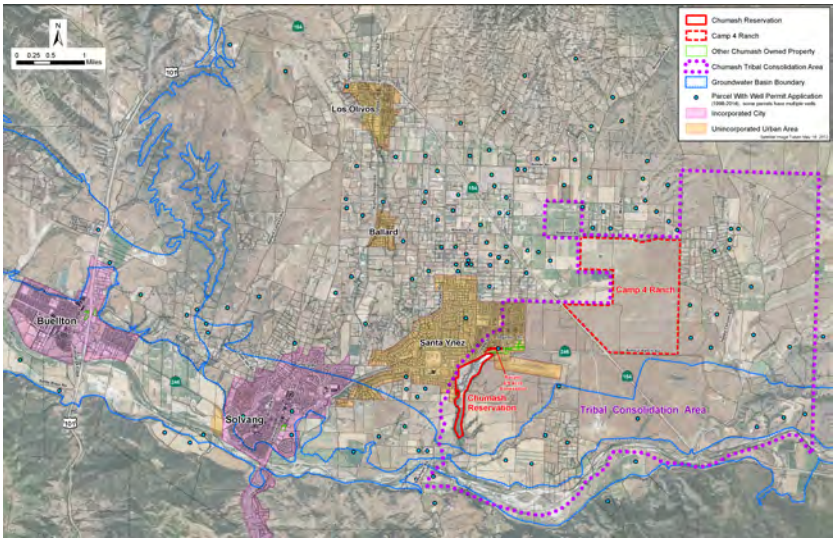
(a) The criteria listed in Section 151.10 (a) through (c) and (e) through (h);

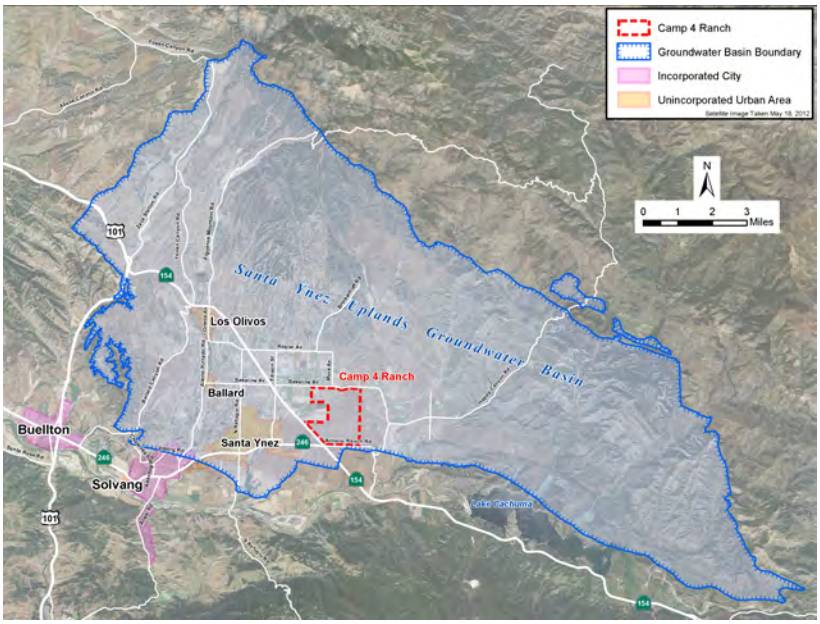
(b) The location of the land relative to state boundaries, and its distance from the boundaries of the tribe's reservation, shall be considered as follows: as the distance between the tribe's reservation and the land to be acquired increases, the Secretary shall give greater scrutiny to the tribe's justification of anticipated benefits from the acquisition. The Secretary shall give greater weight to the concerns raised pursuant to paragraph (d) of this section.

(c) Where land is being acquired for business purposes, the tribe shall provide a plan which specifies the anticipated economic benefits associated with the proposed use.

(d) Contact with state and local governments pursuant to 151.10 (e) and (f) shall be completed as follows: upon receipt of a tribe's written request to have lands taken in trust, the Secretary shall notify the state and local governments having regulatory jurisdiction over the land to be acquired. The notice shall inform the state and local government that each will be given 30 days in which to provide written comment as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments.

MAPS





Mr. YOUNG. Thank you.
Steve Lavagnino. Is that good enough?
Mr. LAVAGNINO. Very good, Chairman Young.
Mr. YOUNG. All right, thank you.
Mr. LAVAGNINO. Appreciate it.

STATEMENT OF STEVE LAVAGNINO, FIFTH DISTRICT COUNTY SUPERVISOR, SANTA BARBARA COUNTY, CALIFORNIA

Mr. LAVAGNINO. Chairman Young, Mr. Ranking Member, I am Steve Lavagnino, Fifth District Supervisor for Santa Barbara County. Members of the committee, good morning. Thank you for the opportunity to speak before you today regarding H.R. 1157, the vehicle that would move 1,400 acres known as Camp 4 into Federal trust for the Santa Ynez Band of Chumash Indians.

In my opinion, I should not be needed here today and this piece of legislation should have never been necessary. I believe the Santa Barbara County Board of Supervisors has failed to perform its responsibilities as the local jurisdiction, and I am grateful you have allowed me the opportunity to provide another perspective.

More than 4 years ago, Tribal Chairman Vincent Armenta requested that the County of Santa Barbara enter into government-to-government dialog to discuss the Tribe's plans for Camp 4, as well as mitigation strategies for those impacts deemed significant enough to warrant mitigation. On August 20, 2013, our Board held a hearing during which Chairman Armenta once again reiterated his desires to begin negotiations, and in order to show his good faith, he made an initial $10 million offer over 10 years for payments in lieu of property taxes, as well as an offer to waive the Tribe's sovereign immunity, which would allow the County to legally enforce the agreement.

Instead of responding to the offer, our Board decided that the Tribe was not equal to other governments we commonly negotiate with, including our local cities, Vandenberg Air Force Base, and the University of California Santa Barbara. On a 3–2 vote, the decision was made to reject the request for dialog.

Some would consider Santa Barbara County a progressive region. It is a leader when it comes to protecting most human rights, but for some reason those same protections are not always afforded to the Tribe. During our public hearings, seemingly educated people still regularly questioned the heritage of the tribal members and the validity of the Tribe's sovereign status. While you may expect such comments sometimes from the public, most alarming are shocking statements from current and former elected officials.

The County Supervisor who formerly represented the area in which both Camp 4 and the Tribe's current reservation lie said, "These are not real sophisticated people." She went on to question their work ethic by stating that they "get $300,000 a year for sitting on the couch watching a Lakers game." One of our current board members, whose district is home to more than 800 people employed by the Tribe recently questioned whether or not the reservation system as a whole should be abolished. This is the environment in which the Tribe is asked to live and work.

I share my colleagues' concerns regarding loss of property tax revenue and loss of local land use control. However, they have refused to even discuss these matters with the Tribe. I warned my colleagues that if we failed to acknowledge the Tribe as a federally-recognized government entity, it would lead to congressional action such as H.R. 1157. That warning fell on deaf ears. But it wasn't just my advice—Governor Jerry Brown's expert on tribal relations indicated the best strategy for counties in dealing with fee-to-trust applications is to "negotiate early in the process."

Opponents will speak about density, even though the Tribe's plan calls for less density than the neighboring development. They will speak about a lack of water, even though the Tribe has proposed a water-neutral development, and they will claim that CEQA will be ignored, even though any development will fall under the regulations provided in NEPA. Although they will claim to be concerned about all of these potential impacts, one has to question what their true motivation is. Just last year, 6.9 acres of land directly adjacent to the existing reservation and slated for construction of a cultural center and park was finally taken into trust after more than 14 years of appeals by these same opponents.

Finally, the Tribe currently resides in substandard housing that lies directly in a flood plain. In case of a fire or emergency, the ingress and egress for those living on the reservation is extremely limited. The Tribe purchased Camp 4 specifically to remedy the housing situation, and is willing to negotiate with the County to resolve the concerns that have been raised. Without negotiations, the County is destined to incur all of the impacts without any share of the revenue.

Unlike some in Santa Barbara County, I understand that the process of taking land into trust is wholly a Federal decision, whether it is through Congress or the Bureau of Indian Affairs. Given that fact, my goal is to work together with the Tribe to

mitigate potential impacts through negotiation. Unfortunately, I believe the Tribe has thoroughly exhausted all avenues in search of reaching an agreement with their local government; and thus, I understand why congressional action is being taken. Thank you.

[The prepared statement of Mr. Lavagnino follows:]

PREPARED STATEMENT OF STEVE LAVAGNINO, FIFTH DISTRICT SUPERVISOR, SANTA BARBARA COUNTY ON H.R. 1157

Chairman Young and members of the committee: Good morning and thank you for the opportunity to speak before you today regarding H.R. 1157, the vehicle that would move 1,400 acres (Camp 4) into Federal trust for the Santa Ynez Band of Chumash Indians (Tribe). In my opinion, I should not be needed here today and this piece of legislation should have never been necessary. But I believe the Santa Barbara County Board of Supervisors has failed to perform its responsibilities as the local jurisdiction and I am grateful that you have allowed me the opportunity to provide another perspective.

More than 4 years ago, Tribal Chairman Vincent Armenta requested that the County of Santa Barbara enter into government-to-government dialog to discuss the Tribe's plans for Camp 4 as well as mitigation strategies for those impacts deemed significant enough to warrant mitigation. On August 20, 2013 our Board held a hearing during which Chairman Armenta once again reiterated his desires to begin negotiations and in order to show his good faith, he made an initial $10 million offer for payments in lieu of property taxes as well as an offer to a waive the Tribe's sovereign immunity, which would allow the County to legally enforce the agreement. Instead of responding to the offer, our Board decided that the Tribe was not equal to other governments we commonly negotiate with, including our local cities, Vandenberg Air Force Base and the University of California at Santa Barbara. On a 3–2 vote, the decision was made to reject the request for dialog.

Some would consider Santa Barbara County a progressive region and it is a leader when it comes to protecting most human rights, but for some reason those same protections are not afforded to the Tribe. During our public hearings, seemingly educated people still regularly question the heritage of the tribal members and the validity of the Tribe's sovereign status. While you may expect such comments from the public, most alarming are shocking statements from current and former elected officials. The County Supervisor who formerly represented the area in which both Camp 4 and the Tribe's current reservation lie, said, "These are not real sophisticated people." She went on to question their work ethic by stating that they "get $300,000 a year for sitting on the couch watching a Lakers game." One of our current Board members, whose district is home to more than 800 people employed by the Tribe, recently questioned whether or not the reservation system as a whole should be abolished. This is the environment in which the Tribe is asked to live and work.

I share my colleagues' concerns regarding loss of property tax revenue and loss of local land use control; however they have refused to even discuss these matters with the Tribe. I warned my colleagues that if we failed to acknowledge the Tribe as a federally-recognized government entity it would lead to congressional action such as H.R. 1157. That warning fell on deaf ears. But it wasn't just my advice—Governor Jerry Brown's expert on tribal relations indicated the best strategy in dealing with fee-to-trust applications is to "negotiate early in the process."

Opponents will speak about density even though the Tribe's plans call for less density than the neighboring development, they will speak about a lack of water even though the Tribe has proposed a water neutral development and they will claim that CEQA will be ignored even though any development will fall under the regulations provided in NEPA. Although they will claim to be concerned about all of these potential impacts, one has to question what their true motivation is. Just last year, 6.9 acres of land directly adjacent to the existing reservation and slated for construction of a cultural center and park was finally taken into trust after more than 14 years of appeals by these same opponents.

Finally, the Tribe currently resides in substandard housing that lies directly in a flood plain. In case of a fire emergency, the ingress and egress for those living on the reservation is extremely limited. The Tribe has purchased Camp 4 specifically to remedy the housing situation and is willing to negotiate with the County to resolve the concerns that have been raised. Without negotiations, the County is destined to incur all of the impacts without any share of the revenue.

Unlike some in Santa Barbara County, I understand that the process of taking land into trust is wholly a Federal decision, whether it is through Congress or the

Bureau of Indian Affairs. Given that fact, my goal is to work together with the Tribe to mitigate potential impacts through negotiation. Unfortunately, I believe the Tribe has thoroughly exhausted all avenues in search of reaching an agreement with their local government and thus I understand why congressional action is being taken.

Mr. YOUNG. Thank you, sir. Now we have Mr. Barlow.

Mr. Barlow, thank you and welcome from where—I believe—from the free State of Alaska, come down and see me on an issue that has been on my burner for a long time, and I wish my colleagues will listen to this testimony, and why we think it is justifiable, regardless of what the Department says. So, Mr. Barlow, you are up.

STATEMENT OF LEO BARLOW, REPRESENTATIVE FOR THE COMMUNITY OF WRANGELL, ALASKA, ON BEHALF OF THE SOUTHEAST ALASKA LANDLESS CORPORATION, JUNEAU, ALASKA

Mr. BARLOW. Thank you, Mr. Chairman. Good morning, Chairman Young and subcommittee members.

Mr. YOUNG. Turn the microphone on.

Mr. BARLOW. Good morning, Chairman Young and subcommittee members. I have traveled here today from Alaska to provide testimony regarding H.R. 2386, a bill to provide for the recognition of five communities in Southeast Alaska in the Alaska Native Claims Settlement Act, commonly known as ANCSA. Thank you for this opportunity to testify on this important issue to several thousand Alaska Natives, and a special thank you, Congressman Young, for introducing this much-needed legislation and for once again taking on our worthy cause.

My name is Leo Barlow, and I have the great honor and responsibility of serving as a representative for the community of Wrangell on the Southeast Alaska Landless Corporation (SALC) Board of Directors, which represents Alaska Natives through ANCSA to the native villages of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell. The people I represent today have suffered an injustice for more than 40 years, an injustice the legislation currently before this subcommittee would address.

In 1971, Congress enacted ANCSA to recognize and settle the aboriginal claims of the Alaska Natives to their traditional homelands. ANCSA provided for establishment of native corporations to receive and manage funds and lands throughout Alaska and Southeast Alaska, where recognized and afforded the opportunity to establish village or urban corporations, and secure a native land settlement. Our five communities were denied these benefits of ANCSA and we have been fighting this injustice since the passage of the Act.

Under ANCSA, as Alaska Natives, we enrolled to 1 of 13 regional corporations, and also to the villages where we lived or to which we had a historic, cultural, or familial tie. For example, I enrolled to the region for Southeast Alaska, and also to the village of Wrangell, my hometown, where our ancestors have lived for many generations.

A total of 747 Alaska Natives enrolled to the native village of Wrangell. Other members of our Landless Corporation enrolled to the four villages of Haines, Petersburg, Tenakee, and Ketchikan.

Those of us who enrolled to these five communities during the ANCSA process did so because they are our traditional homelands and places of origin. Our families and clans originated in these communities and have lived here for hundreds, if not thousands, of years.

In Section 11 of ANCSA, Congress set forth a general process for determining eligibility for each native village in Alaska. Native villages throughout the state of Alaska were listed in this section, and the Secretary of the Interior was charged with making determinations as to whether the listed villages met the eligibility requirements. For a number of reasons, however, there was a different process created for determining eligibility of Southeast Alaska Native villages in Section 16 of ANCSA. These reasons included previous Tlingit and Haida Indian Claims cash settlement, the existence of the Tongass National Forest, the existence of large timber contracts secured by powerful pulp companies, and the significant non-native populations in certain communities.

Another significant difference between Southeast and non-Southeast Alaska communities in ANCSA was the fact that Section 11 of ANCSA provided an appeal right for communities left off of the list of eligible villages, while Section 16 of the Act did not. Three of our coalition's villages—Ketchikan, Haines, and Tenakee—brought protests of this inequitable treatment to the Alaska Native Claims Appeal Board of the U.S. Department of the Interior through appeals in 1974 and 1977. The appeals were rejected because Section 16 made no provision for the administrative reconsideration of the eligibility of villages in Southeast Alaska. Thus, we must appeal directly to Congress for help. You are our only recourse.

The over-3,500 natives who originally enrolled to the affected five villages comprised over 20 percent of the shareholders of Sealaska Corporation in 1972—our regional corporation. Over the years we have received revenue-sharing distributions from Sealaska pursuant to Section 7(j) of ANCSA, but have not enjoyed the social, economic, and cultural benefits of owning shares in a village, urban, or group corporation. Many of the village or urban corporations in our region have brought significant economic benefits to their communities. Additionally, we have been deprived of the significant cultural benefit of owning an interest in lands located within and around our traditional homelands.

The history I am telling today is not based only on the opinions and conclusions made by landless natives. In 1993, Congress directed the Secretary of the Interior to prepare a report examining the reasons why the unrecognized communities had been denied eligibility to form native corporations under the Act.

This report—"A Study of Five Southeast Alaska Communities," referred to as the ISER report—was done by the University of Alaska and concluded that requirements for villages eligible to form native corporations were met by the native villages of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell. The report noted that our communities appeared on early versions of native village lists in the ANCSA Act, and the subsequent omission was never clearly explained in any provision of ANCSA or in the accompanying conference report. The ISER Report is attached hereto,

and I ask that the subcommittee incorporate this report into the record for this hearing.

Mr. YOUNG. Mr. Barlow, how much time do you have left?

Mr. BARLOW. I will conclude fairly rapidly here, sir.

Mr. YOUNG. OK.

[No response.]

Mr. YOUNG. Are you finished?

Mr. BARLOW. Yes, almost.

Mr. YOUNG. OK.

[Laughter.]

Mr. BARLOW. The legislation before this subcommittee today proposes simply to correct a 40-year wrong, and grant rights that we, the native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell should have been given in 1971. Unlike other native villages that were recognized under ANCSA, our communities have not been able to use the tools provided by the Act to create an economic engine by utilizing the resources in our lands, and to promote the well-being of our community members. Sadly, many of our elders have passed who fought for this legislation. We have seen a generational change, and we have much interest now by our younger shareholders who will carry on this battle.

In closing, Mr. Chairman and members of the subcommittee, on behalf of the Southeast Alaska communities affected, I want to once again personally express our extreme gratitude for your consideration of this important legislation.

With that, we conclude our report and thank you. In our language, [Speaks native language.]

[The prepared statement of Mr. Barlow follows:]

PREPARED STATEMENT OF LEO BARLOW, REPRESENTATIVE FOR THE SOUTHEAST ALASKA LANDLESS CORPORATION ON H.R. 2386

Good Morning, Chairman Young and subcommittee members. I have traveled here today from Alaska to provide testimony regarding H.R. 2386, a bill to provide for the recognition of five communities in Southeast Alaska in the Alaska Native Claims Settlement Act (ANCSA). Thank you for this opportunity to testify on this important issue to several thousand Alaska Natives; and a special thank you to Congressman Young for introducing this much needed legislation, and for once again taking on our worthy cause.

My name is Leo Barlow, and I have the great honor and responsibility of serving as a representative for the community of Wrangell on the Southeast Alaska Landless Corporation (SALC), which represents Alaska Natives enrolled through ANCSA to the native villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell. The people I represent today have suffered an injustice for more than 40 years; an injustice the legislation currently before this subcommittee would address.

In 1971, Congress enacted ANCSA to recognize and settle the aboriginal claims of Alaska Natives to their traditional homelands. ANCSA provided for establishment of native corporations to receive and manage funds and lands awarded in settlement of the claims of all Alaska Natives. While many villages throughout Alaska and Southeast Alaska were recognized and afforded the opportunity to establish Village or Urban Corporations and secure a native land settlement, our five communities were denied these benefits of ANCSA. We have been fighting this injustice since ANCSA's passage.

Under ANCSA, as Alaska Natives we enrolled to one of 13 Regional Corporations and also to the villages where we lived or to which we had a historic, cultural and familial tie. For example, I enrolled to the region for Southeast Alaska, and also to the village of Wrangell, my hometown, where my ancestors have lived for many generations. A total of 747 Alaska Natives enrolled to the native village of Wrangell. Other members of our Landless Corporation enrolled to the four villages of Haines, Petersburg, Tenakee and Ketchikan. Those of us who enrolled to these five commu-

nities during the ANCSA process did so because these are our traditional homelands and places of origin. Our families and clans originated in these communities.

In Section 11 of ANCSA, Congress set forth a general process for determining eligibility for each "native village" in Alaska. Native villages throughout the state of Alaska were listed in this section, and the Secretary of the Interior was charged with making determinations as to whether the listed villages met the eligibility requirements. For a number of reasons, however, there was a different process created for determining eligibility of Southeast Alaska Native villages in Section 16 of ANCSA. These reasons included the previous Tlingit and Haida Indian Claims cash settlement, the existence of the Tongass National Forest, the existence of large timber contracts secured by powerful pulp companies, and the significant non-native populations of certain communities.

Another significant difference between Southeast and non-Southeast Alaska communities in ANCSA was the fact that Section 11 of ANCSA provided an appeal right for communities left off of the list of eligible villages, while Section 16 of ANCSA did not. Three of our Coalition's villages (Ketchikan, Haines and Tenakee) brought protests of this inequitable treatment to the Alaska Native Claims Appeal Board of the U.S. Department of the Interior through appeals in 1974 and 1977. The Appeals were rejected because Section 16 made no provision for administrative reconsideration of the eligibility of villages in Southeast Alaska. Thus, we must appeal directly to Congress for help. You are our only recourse.

Southeast Alaska was the first area of Alaska with significant settlement by non-natives because of the inviting climate and abundant resources in our homelands. Although we welcome non-natives who have chosen to live in Southeast Alaska, their presence does not make our homes any less "native" than other villages in Southeast Alaska. Nonetheless, this was a significant factor in the exclusion of our five communities from the list of eligible Southeast Native villages in ANCSA. This occurred despite the clear evidence that each of these Communities has historic, cultural, and traditional Alaska Native characteristics.

The 3,425 natives who originally enrolled to Haines, Ketchikan, Petersburg, Tenakee, and Wrangell comprised over 20 percent of the shareholders of Sealaska Corporation in 1972—our Regional Corporation for Southeast Alaska. Over the years we have received revenue-sharing distributions from Sealaska pursuant to Section 7(j) of ANCSA, but have not enjoyed the social, economic and cultural benefits of owning shares in a Village, Urban, or Group Corporation. Many of the Village or Urban Corporations in our Region have brought significant economic benefits to their communities. Additionally, we have been deprived of the significant cultural benefit of owning an interest in lands located within and around our traditional homelands.

The history I am telling today is not based only on the opinions and conclusions made by Landless Natives. In 1993, Congress directed the Secretary of the Interior to prepare a report examining the reasons why the Unrecognized Communities had been denied eligibility to form native corporations under the Act. This report—A Study of Five Southeast Alaska Communities (the ISER Report)[1] concluded that requirements for villages eligible to form native corporations were met by the native villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell. The Report noted that, with the exception of Tenakee, our communities appeared on early versions of native village lists, and the subsequent omission was never clearly explained in any provision of ANCSA or in the accompanying conference report. The ISER Report is attached hereto, and I ask that the subcommittee incorporate this report into the record for this hearing.

The ISER Report also indicated that the populations and percentage of natives in each of our communities, as well as the historic use and occupation of the lands, were comparable to those Southeast Alaska communities recognized under ANCSA's original language. Prior to passage of ANCSA, each of the Unrecognized Communities had been involved in advocating for the settlement of the aboriginal claims of that community.

In short, the ISER report found no meaningful distinction between the native communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell and other communities listed in Sections 14 or 16 of ANCSA, and thus no justification for omission from the list of communities eligible to form Urban or Group Corporations under ANCSA.

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[1] Lee Gorsuch, Steve Colt, Charles W. Smythe, and Bart K. Garber, Institute of Social and Economic Research, University of Alaska Anchorage, "A Study of Five Southeast Alaska Communities," prepared for the U.S. Forest Service, Bureau of Land Management and Bureau of Indian Affairs (Feb. 1994) available at http://www.iser.uaa.alaska.edu/Publications/StudyOf5-SE-AK-Communities.pdf.

Based on the history set forth above, it is clear that those of us who enrolled to the five Unrecognized Communities—and our heirs—have been unjustly denied the financial and cultural benefits of enrollment in a Village, Urban or Group Corporation. The legislation before this subcommittee today proposes simply to correct a 44-year wrong, and grant rights that we, the native communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell, should have been given in 1971.

In summary, we are Southeast Alaska Natives. These villages identified in H.R. 2386 are our traditional homelands. All we are asking is that Congress recognize that fact and provide us with what we deserve under law and equity: a chance to form ANCSA Corporations for our people and for future generation with ties to our traditional communities. Sadly, many of the original shareholders enrolled to these five communities have passed on and will never see this injustice resolved. I hope that you will help those of us original landless shareholders and our descendants finally secure recognition under ANCSA. It is long overdue.

In closing, Mr. Chairman and members of the subcommittee, on behalf of the Southeast Alaska villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell, I want to once again express our extreme gratitude for your consideration of this important legislation and we urge you to support our efforts to be included in the benefits that ANCSA has brought to other Alaska Natives. I hope that this subcommittee and the House will act quickly to ensure that we finally receive the recognition we have deserved for more than 44 years.

Gunalcheesh (Thank You).

Mr. YOUNG. Thank you. The next witness is Margie?

Ms. MEJIA. Yes.

STATEMENT OF MARGIE MEJIA, CHAIRPERSON, LYTTON RANCHERIA, SANTA ROSA, CALIFORNIA

Ms. MEJIA. Good morning, Chairman Young, Ranking Member Ruiz, and members of the Subcommittee on Indian, Insular, and Alaska Native Affairs. My name is Margie Mejia, I am the Chairwoman of the Lytton Rancheria in Santa Rosa, California. Thank you for allowing me to be here today to speak in strong support of H.R. 2538, the Lytton Rancheria Homeland Act of 2015.

A special thank you to our Congressman, Jared Huffman, for working with the Tribe to introduce the bill, and our neighboring Congressman, Jeff Denham, for supporting us and co-sponsoring the bill.

The Tribe has provided a written statement for the record, and I would like to explain why the passage of this bill is so important for the Lytton Rancheria. Taking this land into trust will allow the Tribe to construct, with its own funds, housing and community facilities. This will allow the Tribe to live as a community for the first time in over 50 years.

The creation of a homeland will allow the Tribe to govern itself and continue to diversify its economy to provide for tribal generations to come. The status as a federally-recognized tribe will fully be restored, and the Tribe will now be on equal footing with other recognized tribes.

Thank you for your time and your support, and I am available for any questions you may have. Thank you.

[The prepared statement of Ms. Mejia follows:]

PREPARED STATEMENT OF MARGIE MEJIA, LYTTON RANCHERIA, SANTA ROSA, CALIFORNIA ON H.R. 2538

Good morning Chairman Young, Ranking Member Ruiz and members of the Subcommittee on Indian, Insular and Alaska Native Affairs. My name is Margie Mejia, Chairperson of the Lytton Rancheria in Santa Rosa, California. Thank you for allowing me to be here today to speak in strong support of H.R. 2538, the Lytton Rancheria Homeland Act of 2015. A special thank you to our Congressman Jared Huffman for working with the Tribe to introduce the bill and to our neighboring Congressman Jeff Denham for supporting us and co-sponsoring the bill.

If enacted, H.R. 2538 would right a historical wrong and restore a permanent homeland for the Lytton Rancheria now and for our future generations. The bill would provide that lands currently owned by the Tribe in fee be held in Federal trust and have reservation status. On behalf of the members of the Lytton Rancheria of California, I ask that you support the Lytton Rancheria Homeland Act of 2015.

BACKGROUND

The Lytton Rancheria is a federally-recognized Pomo Indian Tribe from California's San Francisco Bay area. Prior to European contact it is estimated that as many as 350,000 Indians were living in what is now the state of California. By the end of the 19th century, that number was reduced by 96 percent to approximately 15,000.

The Pomo people occupied lands in the northern part of California that spanned an area from the Pacific coast at the northern San Francisco Bay area to the Lake District in northern California. Their ancestors were devastated by the Gold Rush and hostile state and Federal policies toward Indians in the 19th century. By the early 1900s most Indians and Indian tribes from the area that managed to survive were poverty stricken, landless and homeless. Because of this unconscionable state of affairs in California, Congress enacted legislation to help purchase reservation lands for many of these Indians and tribes. The Lytton Rancheria is one such tribe which received reservation lands in Sonoma County from these purchases.

The Tribe resided and flourished on the land sustaining itself by farming and ranching until it once again fell prey to bad "Indian policy" on the part of the government. Unfortunately, the hostile attitude toward California tribes soon returned, and with passage of the Rancheria Act of 1958, Lytton Rancheria, along with dozens of other California tribes, had its relationship with the Federal Government terminated. This resulted in the Tribe losing all of its Rancheria lands as well, and it once again became a destitute, landless Indian tribe with no means of supporting itself. As has now been widely accepted, the Rancheria Act was another failed attempt to cause Indian tribes to disband. Despite the hardships caused to it by continuously losing its homelands, the Lytton Tribe remained cohesive and strong, not giving up its claim that it had been wrongfully terminated.

In 1987, the Tribe joined with three other tribes in a lawsuit against the United States challenging the termination of their Rancherias. In 1991, a Federal court concluded in "*Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancheria v. United States of America*" No. C–86–3660 (N.D.Cal. March 22, 1991), that the termination of the Lytton Rancheria was indeed unlawful, and Lytton's federally-recognized tribal status was restored by court order. In part the Stipulated Judgment reads, ". . . that the distributees of the Lytton Rancheria are eligible for all rights and benefits extended to Indians under the Constitution and laws of the United States; and that the Lytton Indian Community and its members shall be eligible for all rights and benefits extended to other federally-recognized Indian tribes and their members . . ."

Lytton's status was restored, but its land base, now owned by non-Indians, was not returned to them and Lytton remained a landless and impoverished tribe. The Tribe had no home to return to. The Stipulated Judgment that ended the case was agreed to by Federal and county authorities and specifically promised the Tribe a new homeland in Sonoma County on lands to be held in Federal trust. Twenty-four years later, the Tribe is still waiting for that promise to be fulfilled. Almost three generations of our people have not known what it is like to live in a community on tribal lands.

In 2000, Congress passed Section 819 of P.L. 106–568 which directed the Secretary of Interior to take certain land into trust for gaming purposes for the Tribe in San Pablo, California. This action was taken after due consideration and with strong local support. Lytton has established a small, successful Class II gaming operation in that location which is limited by law to electronic bingo games and

poker. The Tribe collects revenues from this facility to pay for tribal needs including education and health care, as well as purchasing property for a homeland and area to diversify the Tribe's economic development. The Tribe's 9.5 acre San Pablo trust parcel is only large enough for the gaming facility and cannot meet the Tribe's need for tribal homeland.

NEED FOR TRUST LAND

Indian tribes have long been held to be distinct political communities. This inherent sovereignty of tribal governments is acknowledged in the United States Constitution, as well as treaties, legislation and judicial and administrative decisions. Land is essential for tribes in order for them to function as governments. Tribal trust lands are especially important to this advancement. Tribes need trust lands so that they can provide governmental services for their members, such as housing, health care, education, economic development, and in order to protect historic, cultural and religious ties to the land.

The Indian Reorganization Act ("IRA") recognized the need for tribes to have and govern their own lands to provide for the advancement and self-support of their people. The legislative history of the IRA clearly shows the intent of Congress to address and ameliorate the extensive loss of land tribes had suffered. Specifically, the IRA made a change in Federal Indian policy which would "establish machinery whereby Indian tribes would be able to assume a greater degree of self-government, both politically and economically." This is done through growing their land bases.

Every Indian tribe needs to have a homeland with clearly delineated authority to provide services to its members and jurisdiction over its lands to provide the necessary infrastructure and land use planning for future generations. With the exception of the small parcel Congress provided it for gaming in San Pablo, which is not large enough for a tribal homeland, Lytton Rancheria has been left essentially landless since it was terminated in 1961. For more than 50 years the Tribe has not been able to provide its members a homeland on which to have housing, community and governmental facilities, and to follow their religious practices without interference from outsiders.

Lytton Rancheria has used revenues from the San Pablo Casino to purchase lands, from willing sellers and at fair market value, near its former Rancheria in the Alexander Valley of Sonoma County. Lytton Rancheria has concentrated the purchase of property near the Town of Windsor and currently holds these lands in fee status. The attached map entitled, "Lytton Fee Owned Property to be Taken into Trust—May 1, 2015" shows the property proposed for trust status under H.R. 2538 which includes 511 acres. There will be no gaming on any of the lands covered in H.R. 2538. The bill specifically prohibits gaming on any of the lands.

Of the acreage proposed for trust status, the Tribe proposes to use approximately 124.12 acres for housing and other governmental and community facilities. This will allow it to have a homeland for its members after 50 years in exile. A portion of the land proposed to be taking into trust is currently being used for economic development purposes such as viniculture.

The Tribe has purchased a number of vineyards and is operating them in an environmentally sensitive manner. Vineyards that were in various stages of disrepair prior to the Tribe's purchase are now being put back into clean, healthy working order. Small tributaries of the Russian River that have long been clogged and unusable by fish are being cleaned out and made ready for use again. Additionally, the Tribe has installed wind machines to use during frost warnings to keep the grapes from freezing, rather than using overhead spray from the Russian River like many ranches in the area. This innovative measure will save water from being taken from the Russian River at a vital time of the river's flow. The Tribe's investment in the ongoing viniculture operations has reinvigorated many previously deteriorating vineyards, and its grapes are being used to produce high-quality wines. Lytton operates its vineyards on a fish-friendly and sustainable basis, and is working toward sustainability certification pursuant to the practices of the Sonoma County Winegrape Association and the California Sustainable Winegrowing Alliance.

LYTTON RANCHERIA IS A GOOD NEIGHBOR

Lytton Rancheria has prided itself in being a good neighbor to the communities surrounding its lands. For example, in San Pablo, the Tribe provides more than 50 percent of the City's operating budget and donates to many local charities. For instance, the Tribe sponsors a yearly golf tournament to benefit the Brookside Foundation thus providing $100,000 a year for healthcare for an impoverished community. The Tribe has also donated $50,000 to the Boys and Girls Clubs of San

Pablo. In addition, the Tribe contributes $25,000 a year to the Friendship House in San Francisco to help aid in drug and alcohol rehabilitation in the Bay Area.

The Tribe is a premier supporter of the Wells Fargo Center for the Arts in Sonoma County, donating $500,000 a year for children's programs and musical instruments. Lytton has recently agreed to give $250,000 a year for 5 years to the Charles Shultz Children's Charities, which includes three different children's charities in Sonoma County. These are just a few examples of Lytton Rancheria using its resources to assist its local communities.

On the Federal level, Lytton Rancheria does not accept any Federal funding it is eligible for as a tribe except for Indian Health Service (IHS) funding, which it immediately turns over to the Sonoma Indian Health Clinic. This Clinic provides healthcare for all Indians, regardless of tribal affiliation, residing in Sonoma County. On top of its IHS funding, the Tribe also donates an additional $600,000 per year to the Sonoma Indian Health Clinic to use for expenses.

MEMORANDA OF AGREEMENT

Realizing that having land in trust in Sonoma County would change some of the current uses of the land, the Tribe has spent years meeting with, negotiating and forming agreements with the County of Sonoma, the local school district and the local fire department.

WINDSOR FIRE PROTECTION DISTRICT

Lytton Rancheria has entered into a Memorandum of Agreement with the Windsor Fire Protection District to provide emergency services to tribal members located in the proposed tribal housing area, which is within the District's jurisdiction. Under the Agreement, the Windsor Fire Protection District will provide the initial response to all emergency incidents for fire, medical, rescue or other reported emergency reason.

In return for these services, the Tribe has agreed to make payments to the fire district including: $50,000 a year for equipment purchases and $80,000 a year for one full-time firefighter. In addition, the Tribe has agreed to pay to the District, prior to the start of construction: $750 per each single family home, $525 per each multi-family unit, and $340 per every 1,000 square feet of space for a community center and tribal retreat center. Once property is in trust status the Tribe has also agreed to pay the District on an escalating basis yearly. The beginning payment would be $25,000/year and increase up to $50,000/year for the term of the agreement. Further, the Tribe has agreed to provide additional funding if necessary in the case of an emergency such as terrorism, earthquake or other act of God.

The Tribe will comply with California Fire Code and Fire Safety Standards Ordinance during construction of all housing and tribal buildings. The Tribe will also be responsible for providing adequate water and pressure for firefighting.

WINDSOR UNIFIED SCHOOL DISTRICT

Lytton Rancheria has entered into a Memorandum of Agreement with the Windsor Unified School District to prepare for and mitigate an increase in school aged children who would move into the proposed tribal housing. The Tribe has agreed to pay, based on the Environmental Assessment for the housing project, the amount of $1 million dollars. This amount is similar to the amount that would be owed to the School District if the land were developed by a non-tribal entity.

TOWN OF WINDSOR

The Tribe is in talks with the Town of Windsor for water and sewer support for the tribal housing area since the development would be just outside the current Town water and sewer boundaries. This decision is likely to be made through public referendum and the Tribe is prepared to pay substantially to mitigate any costs required by such services as well as to assist the Town with other priorities it might have for its citizens.

COUNTY OF SONOMA

After years of discussion and negotiation, Lytton Rancheria and the Sonoma County Board of Supervisors have agreed to and signed a binding Memorandum of Agreement (MOA). I am pleased to report that both the Lytton Tribal Council and the Sonoma County Board of Supervisors voted unanimously to support the agreement and the legislation to take lands into trust for the Tribe.

The detailed Agreement with the County initially spans a term of a generation and covers almost every aspect of land management once the tribally owned land is taken into trust status. The MOA is too long to detail in this testimony, but I will cover some of the significant portions.

- An Environmental Assessment was prepared and submitted to the Bureau of Indian Affairs and circulated regarding the residential development area for tribal housing. The Bureau of Indian Affairs issued a Finding of No Significant Impact (FONSI) on June 5, 2012. The MOA contains agreements for the mitigation of potential impacts from this, or any future, land being taken into trust status for Lytton Rancheria.
- In the residential development area, the MOA contains agreements on how many units will be built, the size of the units and who can reside there. Some oak trees will be cut in the residential area, however the Tribe has marked and will protect the larger heritage trees, and is providing the County with funding to replace, on a 1 to 1 ratio, the smaller trees that are cut down.
- The Tribe has agreed to strict environmental protection and mitigation efforts for the residential project, including the community and governmental facilities. The Tribe has also agreed that for a potential future lodging facility and winery, it will prepare an Environmental Impact Statement in compliance with NEPA and negotiate with the County on mitigating impacts. The Tribe waived its sovereign immunity in the MOA and agreed to binding arbitration if there is disagreement on mitigation.
- Lytton Rancheria has agreed to provide compensation for substantial mitigation and other costs to the County. These include a one time payment of $6 million dollars for mitigation of, among other things, county roads, native oaks, woodlands; and a one time payment of $100,000 for costs incurred by the County to prepare and implement the MOA.
- The Tribe has agreed to a continuous payment to the County based on the valuation of the land as determined by the County Assessor's Office. In addition the Tribe has agreed to pay to the County 9 percent of all rents collected by the Tribe on hotel rooms and vacation rentals.

GOVERNOR OF CALIFORNIA

On May 27, 2015, Governor Jerry Brown, Jr. wrote a letter to Congressman Jared Huffman expressing his support for the Lytton Rancheria Homeland Act of 2015. In his letter he stated in part, "Lytton Rancheria and Sonoma County have concluded an Agreement that reflects a respectful relationship. The Act and Agreement provide the framework for mutually beneficial cooperative efforts that protect the Tribe's sovereignty as well as the vital interests of Sonoma County residents."

CLOSING

In closing Mr. Chairman, I want to thank you again for holding this hearing addressing the number one priority of my tribe—the re-establishment of a homeland on which the Lytton people can once again live communally now and for future generations. We have been fighting back from losing our lands (the last time) for more than 50 years, and I do not want another of our tribal elders to pass away without knowing there once again is tribal land to house our people.

This committee has been there for us in our struggle. Please know that fact is not lost on us. All people need a homeland and we are no different. We are not asking for Federal or state lands. We have been able to purchase our own land and we have done the hard work of getting agreements with our local non-Indian communities. All we need now is for the Federal Government to finish what was promised to us when our status was restored. As an Indian tribe, we need our land to be held by the Federal Government in trust for the Lytton Rancheria.

Passage of H.R. 2538, the Lytton Rancheria Homeland Act of 2015 will restore my people to where we were before termination. I hope you will continue to support the Lytton Rancheria and move H.R. 2538 out of committee and to the House Floor in the near future.

Thank you.

Attachment: Map

MAP

Lytton Fee Owned Property to be Taken into Trust - May 1, 2015

SOURCE: Sonoma County General Plan 2020, updated 2012, USDA aerial photograph, 6/13/2010, AEL 5/7/2015

Mr. YOUNG. Thank you. Before I recognize the Ranking Member, who will ask the first series of questions, Steve, I will tell you this is not new to me. This issue has been around for a long time. Thank you for your testimony. And I mean that, because I have not seen the effort put forth, as you suggest in your testimony, by the people involved that don't want the bill to pass. If I thought for a moment there was true negotiation, government-to-government, I wouldn't be having this bill. I wouldn't have this hearing. But I don't see that effort. I see a total lack of consideration. And some of the comments you made are telling about the character of some people. So we are going to try to move this piece of legislation.

With that, I will recognize the Ranking Member.

Dr. RUIZ. I am going to go ahead and yield the first round of questions to Representative Huffman. Go ahead.

Mr. HUFFMAN. I thank the Ranking Member. My question is to Mr. Black from the BIA.

One of the reasons I introduced this bill is that I appreciate the detailed agreements that this tribe, the Lytton Tribe, has reached with county and local agencies. These are agreements that anticipate and mitigate possible impacts. They describe how future decisions will be made. And, along with the legislation, they actually prohibit gaming on the land.

Now, it is my impression that if we think about the alternative of the BIA process, there are far fewer opportunities for all of the affected parties to collaborate on a path forward. Can you give us an idea as to how many applications the BIA has approved in recent years, including post-Carcieri, and how much land has been taken into trust through that process?

Mr. BLACK. Yes, sir. Thank you for the question. Since about 2009, we have brought in approximately 1,921 applications, totaling a little over 300,000 acres of land into trust for tribes.

Mr. HUFFMAN. So the perception that Carcieri sort of shut down the BIA land-to-trust process is incorrect. We hear this sometimes.

Mr. BLACK. I wouldn't say it shut down the process. It did add some complications and length to the process, yes.

Mr. HUFFMAN. Right. As we heard from the Chairperson at the Tribe, the Lytton Rancheria is a federally-recognized Pomo Indian Tribe, and these folks have occupied land in California and entered into treaties with the Federal Government going back to the 1850s.

I understand that the Tribe has two land-to-trust applications pending before the BIA. I wonder if you could speak to the scenario where, if BIA approved those pending applications, would any of the agreements that have been reached with local agencies or the County, or the prohibition on casinos, would any of that necessarily be included in a BIA decision on those applications?

Mr. BLACK. Those decisions, or those types of agreements and stuff, are considered when we are reviewing applications, but they do not become part of the application process, or the decision, no.

Mr. HUFFMAN. So there would be no guarantee, for example, that there would be a no-casino provision in a BIA decision.

Mr. BLACK. No, generally not, no.

Mr. HUFFMAN. Chairperson Mejia, your written testimony explains that you have used revenues from San Pablo, the casino, to buy lands in Sonoma County from willing sellers, and some of the

property that the Tribe has acquired includes vineyards. The Tribe is now getting into the wine business.

Why is it important for you that the Tribe diversify its economic holdings?

Ms. MEJIA. It is important because you can't put all your eggs in one basket. And gaming, while it is a viable vehicle for generating revenue, we can't be guaranteed that that is going to always be there. As a Senator told me years ago, the gaming industry is fluid.

Second, it is what IGRA intended, for tribes to be sovereign. You diversify to make your money work for you and to be able, for the longevity of the Tribe, to provide for my members for generations to come—not only for my members, but for the community, because with the agreements that we have, we are definitely good neighbors. And I think the signed agreements show that.

Mr. HUFFMAN. You have agreements with the County of Sonoma, the local fire district, local school district, the possibility of an additional agreement with the Town of Windsor. This is a lot of work. You are not required by law to do any of this. Why was it important to you to spend months and, actually I think, even years at the negotiating table to try to work these things out with your local government partners?

Ms. MEJIA. It was important because we want to be good neighbors. We don't want to be in a community where we are not wanted and we are a burden. So in doing these agreements, we gave the local communities the assurance that we were going to be good neighbors, we were going to be productive citizens in the community, and it is a mutual respect and a win-win situation for everyone.

Mr. HUFFMAN. Well, I want to thank you for taking that approach. This is not how it always works in these land-to-trust situations around the country, or even everywhere in my district. So I applaud you for doing the hard work of trying to work things out with your local government partners.

Ms. MEJIA. Thank you.

Mr. HUFFMAN. I appreciate your testimony today. With that, I yield back.

Dr. BENISHEK [presiding]. Thank you. I will yield myself 5 minutes, since I was up next.

Ms. Miyasato, you work for the County Board, or the Board of Supervisors, then. You are the Executive Director. I listened to your testimony and why you opposed the land-into-trust thing, and the reasons for it. I guess the question I have for you is, how do you propose remedying the Tribe's current need for housing?

Ms. MIYASATO. Congressman, thank you for asking that question. We never said the Tribe didn't need housing. And when the Board made its decision back in August 2013, which Chairman Armenta and Mr. Lavagnino referred to, the actual motion was for the Tribe to—we requested that they begin discussions with the County regarding their plans to develop housing on Camp 4 and other projects that they would like to see, and they directed their staff, us, to work with the Tribe on any potential plans for Camp 4.

So, I just wanted to clarify that that was actually the Board's direction to staff. There was a meeting, I believe, with the

representative from the Tribe and with our staff, and there was an explanation of our process, and then no follow-up from the Tribe.

Dr. BENISHEK. Well, what about the gentlemen next to you, both say that the County was unwilling to work with the Tribe as a government? What is that about?

Ms. MIYASATO. Congressman, I think that since I have been with the County—I have been with the County for a year-and-a-half as the CEO—I know there have been different stories and discussions about what had happened. So I went back to look at the record myself, and all I can tell you is that the actual direction from the Board of Supervisors at that time and at that meeting was directing staff to work with the Tribe in discussions with our planning staff on plans to develop Camp 4. And that is the information that I have.

And since I have been with the County, the Board of Supervisors has worked productively with the Tribe. There are two agreements that Chairman Armenta discussed, which was one for sheriff services and fire services. So they offered, and the County voted unanimously to work with them and approve those agreements. Just as a side note, those agreements for existing services on the reservations——

Dr. BENISHEK. Chairman Armenta, now, give me your response to what she just said here. You know, what is the story? I mean, like any other landowner, can't you do an application to put up housing? And why is this not an option for you?

Mr. ARMENTA. Our request at that meeting was that the County meet and negotiate with the Tribe on a government-to-government basis. Instead, the County Board of Supervisors failed to acknowledge our sovereign status, and pointed us in the direction of staff, county staff, as a typical landowner, not as a government. That is the direction we were sent.

Dr. BENISHEK. So that is not going to work for you, then? Is that the story?

Mr. ARMENTA. To address the housing need for our membership, that does not fall within the Santa Barbara County or the Santa Ynez Valley community land use plan. No, sir.

Dr. BENISHEK. I see. So you couldn't build housing there without it being put into trust?

Mr. ARMENTA. We could build one house for every 100 acres. So we could build 14 houses.

Dr. BENISHEK. I see. OK. Let me ask Mr. Barlow.

Can you discuss a little bit further the economic benefits that the recognized tribal communities in your area might have with the passage of this?

Mr. BARLOW. Thank you for your question, Congressman. I would——

Dr. BENISHEK. You mentioned it, but I need a little more detail.

Mr. BARLOW. Sure. In the case of those communities in our region that have been recognized, they have been able to form business operations. We are organized under a corporate structure in Alaska. And they are into several different enterprises, including things such as government contracting, including eco-tourism, cultural tourism. Some have invested in operating companies all over the United States of America. This has allowed them to, provided

they are profitable, have enough wherewithal to fund such things as cultural programs, educational programs, scholarship programs for their shareowners, as well as to participate in furthering the political process in the region. So they have much more of a realized benefit than those of us who have not been recognized.

Dr. BENISHEK. All right, thank you. I appreciate it. I just want to ask Chairwoman Mejia a question here.

Can you describe the current status of the land, again, that is going to be taken into trust? And what is the current status?

Ms. MEJIA. It is held in fee.

Dr. BENISHEK. Oh, OK. All right.

Ms. MEJIA. It is owned by the Tribe, but it is in fee status, currently.

Dr. BENISHEK. OK. All right, thank you. I yield back.

Mr. YOUNG [presiding]. Mr. Ruiz.

Dr. RUIZ. Thank you, Mr. Chairman.

Mr. Black, I have a clarifying question. I heard today that the Chumash bill is unnecessary because the land is already into trust, the Camp 4 land is already into trust. Is it into trust?

Mr. BLACK. The decision was made by the Pacific regional director to bring that land into trust. That decision is currently under appeal. So it hasn't completed the process. No, sir.

Dr. RUIZ. OK. So it is not into trust.

Mr. BLACK. Not officially, no——

Dr. RUIZ. OK.

Mr. BLACK [continuing]. It is still under appeal.

Dr. RUIZ. Chairman Armenta, I understand, then, in the late 1800s the Tribe lost over 13,000 acres of land. It seems to me that one of the concerns was that this new land would be 10 times larger than the existing reservation. But yet you lost your ancestral land that was larger than this 10 times the size of what your current exists. Can you give me more of that history, please?

Mr. ARMENTA. There was a lawsuit filed by the Archdiocese of the Catholic Church against the Federal Government to remove the tribes and the tribal member's name off a title, when the Catholic Church held that land with the tribe on title. And, in return for that lawsuit, that is when they gave us 99 acres. For a period of time we were on title for over 13,000 acres.

Dr. RUIZ. So you had 13,000 acres. They put you on 99 acres. And, of those 99 acres, how many of it can you develop housing on, or do anything with it?

Mr. ARMENTA. The original 99 acres, about 40 acres of it is developable.

Dr. RUIZ. So, in other words, they took away your land, put you on a very small piece, and the majority of that is rocky hillside, where you can't do anything with it. Is that——

Mr. ARMENTA. Either rocky hillside, sir, or swamp.

Dr. RUIZ. OK. So, my understanding is that you owned this piece of land, and it has been determined to be your ancestral land, and you want members of your tribe to come home to, basically, live on their land. Is that the premise of this bill?

Mr. ARMENTA. Yes, sir. It is.

Dr. RUIZ. OK. And my understanding, from what I have heard today, is that you have shared any concerns, the burden of any

concerns, in providing for law enforcement, fire department, and anything else that the local different agencies want you to address, but that the stalemate here is that the County does not want to negotiate in a government-to-government level with the Tribe. Is that my understanding?

Mr. ARMENTA. That is your understanding. We currently have two agreements with Santa Barbara County to provide law enforcement and fire safety of a total of about $2 million a year.

Dr. RUIZ. So I am wondering. What is the heart of this issue? So they are concerned about gaming, and you put in the provision there is no gaming. They are concerned about taxes, yet you want to give them $1 million a year when they are only collecting $81,000. So that is 125 years' worth of taxes in the next 10 years. You are going through the NEPA process. You are looking at water. There is a development next to yours that is even more dense in housing than what you are proposing.

So, this question is for Ms. Miyasato. What else—what is the heart of this issue? What is the matter here?

Ms. MIYASATO. Congressman, there are a couple of different things that you have mentioned, so thank you for mentioning those things.

One is when you talked about the provision of service. The provision of service that Chairman Armenta discussed was for the existing reservation and the casino. And we consider it as mitigation for those and their casino expansion, which is a recent project to put in a 12-story tower, and to expand their casino with that. So, the recent agreements we have agreed to with the Chairman and the Tribe were really for the existing reservation, not for the 1,400 acres that we are talking about today.

In addition, you talked about—and rightfully so—you said there is other land in the area that is developed. When the community went through a community planning process, and the County went through a comprehensive planning process, we said, "Yes, we agree there are some pockets of development. But those are not pockets of development we would like to see in this particular land, which has been zoned for agricultural use." And, as Mr. Armenta said, it is zoned for 100 acres, and it is because, when we went through this local community planning process, we said there are areas that are part of the urban boundary, and areas outside. And we, in Santa Barbara County, are committed to preserving and encouraging agricultural viability.

So, some of the land that has been purchased by the Tribe is in that agricultural zone; so it is really a discussion of the community's values of maintaining agricultural use, and confirming the community's desires through our comprehensive planning process. Then this land being in there, this isn't in-fill development. We are talking about an area that we have looked at for rural agricultural use.

And when the Chairman said you couldn't build the houses——

Dr. RUIZ. So then, in other words, the point of the matter is that you don't want housing on this agricultural land. Because it seems to me that everything else, the Tribe is bending over backwards to work with you. So then, it not only becomes an agricultural zoning issue versus whether you want to build houses on it, but, on the

flip side, the other side of the story is a moral justification for some sense of justice for a tribe who has lost a large portion of their land, and is now simply wanting to have their members come home and to have a homeland of which it was taken away years ago. So, I believe that is sort of the dilemma that is going on in this.

And one of the things that I want to make very clear is that they are a government. They are a sovereign nation. And for any institution in the United States not to recognize that is backwards. So, we need to make sure that they are respected, that they have a seat at the table, and that they are in negotiations with any other government, as a government. I believe that is another part of the matter for our committee to make it understood to the County.

Mr. YOUNG. I thank the gentleman.

Mr. LaMalfa.

Mr. LAMALFA. Thank you again, Mr. Chairman. And again, thank you all for your travel here to come all the way to DC, Chairman and Supervisor, Ms. Miyasato—sorry about that.

Supervisor, I think we may share the same old-country roots, so I am going to try it the right way. Is it Lavagnino?

Mr. LAVAGNINO. Lavagnino.

Mr. LAMALFA. Lavagnino. OK, all right. I was trying to account for the G there. So, anyway, now, as a county supervisor—and, you know, I represent 11 counties up in the north, in the first congressional district, and it is pretty rural—they are always battling, trying to stay funded, trying to work with the Federal Government for a lot of the Federal lands that are owned there that we have the PILT, payment in lieu of taxes, and that is probably fairly important to you in Santa Barbara, as well.

So, what we are looking at here is kind of a PILT-type situation. Of course, there were concerns, taking land into trust. But we have seen where the Chumash Tribe has stepped forward to more than make up for that. So what do you see that as being beneficial for your county, which—I would imagine all counties, you know, having worked with CSAC and RCRC before—how important is that to you, to see the potential benefit here?

Mr. LAVAGNINO. Well, thank you, Congressman. We, as any county has over the past few years in California, we have struggled financially, and this was our first year where we really had a surplus and have been able to restock our surplus accounts.

But, obviously, when you are talking about an area—if you are just looking at this from a financial perspective, we have been receiving somewhere between $80,000 and $85,000 a year, and now we would be getting $1 million a year. Obviously, that would have a significant impact to the services that we would provide.

Mr. LAMALFA. And earlier, Chairman Armenta testified that they do indeed provide not only their own weight, but above that with their emergency services and other things they provide to the area, to the valley. So that has to have a pretty positive impact already, as well, for——

Mr. LAVAGNINO. It does, and it is very well received. And those were actually agreements that the Chairman worked—I would have to say it is almost offline with the sheriff. The Board of Supervisors were not involved until we actually approved the contracts at the end. They brought us the contracts between the Tribe

and the sheriff and our fire department. And one of them is for a large—forgot how much they spent—over $1 million on a piece of equipment that is going to be used all throughout the Santa Ynez Valley.

Mr. LAMALFA. OK, thank you.

Ms. Miyasato, you kind of mentioned earlier that the legislation, or the effort by the Tribe, would be a shortcut to getting to their end goal of providing housing, of using their land as they would perhaps like to see fit.

So they have already owned the land for about 5 years. But, even more so, you point back to taking into trust recently 6 acres adjacent right to the trust land they have, which was a 14-year lawsuit-filled process. How can you really think that, at this point, this looks like a shortcut, when they have waited this long, and past history shows that they have endured a lot of unnecessary attorneys fees and delay, again, with the end goal they have members that need housing, would like housing, would like it in the traditional way, with people they would like to associate with? How can you justify that?

Ms. MIYASATO. Congressman, I think what we are saying in the County is that we have—you have a process, Congress has a process for hearing the community and the local residents' concern through the appeal process, and we would like to see that through, rather than have this bill preempt that.

And on the 6.9 acres, I am sympathetic to the Tribe in the length of time. And I just want people to know that the County did not oppose that, taking that into trust. It was commercial property for their uses, and we did not oppose that. I think the issue, here again, is that this——

Mr. LAMALFA. But you have a culture there of people that will come forward with lawsuits, frivolous in nature—and that is debatable, I suppose—but the delay there for people trying to do what they see fit, and do business, and the County is contributing to that in this scenario here.

Ms. MIYASATO. Congressman, I think that there are some errant voices, and maybe misguided voices in the community, as you have pointed out. In my time there, in evaluating that and talking to community members, I think the main concern is just the change in use and the lack of input through the process. And as we talked about——

Mr. LAMALFA. There has been plenty of input through the courts, ma'am, and it looks like there will be more to come along.

And a disturbing thing, too, is that you didn't acknowledge that they are already providing emergency services above and beyond what anybody would expect. Instead you referred that the County has to do this on the lands that are—as is. So I think a little more acknowledgment of the cooperation of the Tribe, it would be very much in order.

I will yield back, Mr. Chairman.

Mr. YOUNG. Thank you.

Mrs. Torres.

Mrs. TORRES. Thank you, Mr. Chairman. Just a follow-up question to Ms. Miyasato.

What are your—you were talking about community values. I happen to value affordable housing. Have you met your numbers?

Ms. MIYASATO. For the state? Yes, we did. We just passed our most recent housing community development plan for the state of California. So we just approved that, yes.

Mrs. TORRES. OK. What is the number of homeless individuals in your county?

Ms. MIYASATO. Congresswoman, I don't have that information, but I could certainly provide it to you.

Mrs. TORRES. When you provide that information, can you provide tribal members that may be homeless or at risk of homelessness?

Chairman Armenta, can you give the committee a little bit more information about the Tribe's current housing stock? Specifically, can you elaborate on who does and doesn't live on the reservation?

Mr. ARMENTA. Yes, Congresswoman. Currently we have 65 homes on the reservation. There are 143 enrolled tribal members, there are 500 children. Of those, 17 percent live on the reservation. They are homes that were built—started being built in the 1970s by HUD. Most of them are two-, perhaps three-bedroom homes, that are housing multiple generations.

Mrs. TORRES. As a follow-up, if the Tribe is able to acquire this land, how far would it go toward addressing the housing situation among tribal members?

Mr. ARMENTA. It would assure that every enrolled tribal member would have a home to live in on the reservation and practice our cultural beliefs, as well.

Mrs. TORRES. I read in the reports about all of your outreach efforts to the community. Can you elaborate for this hearing today how extensive those efforts have been?

Mr. ARMENTA. Congresswoman, we have lived within this community far before it was developed. Even when the first settlers came in, we felt that it was the responsibility of our tribe, it was the nature of our membership to be hospitable to people. But we provide our community, I believe, with items that are not recognized as well as they should be.

For instance, the fire agreement. This fire agreement that we have with the County was originally dated back to 2002 that I personally negotiated, far before any casino expansion. Three years ago I started negotiations with the county sheriff, well before we were doing any expansion of any casino.

California is a Public Law 280 state. Santa Barbara County has the responsibility for providing fire service and public safety, law enforcement on reservations. We just insist on helping them, because we know it not only makes our reservation community a better place to live, but it makes the Santa Ynez Valley a better place to live.

Mrs. TORRES. Right. Thank you.

And thank you, Mr. Chairman.

Mr. YOUNG. I thank you.

Mr. Gosar.

Dr. GOSAR. Thank you very much.

Director Black, the Tribe has been very forthcoming that this land taken into trust will not facilitate a casino. Is that true?

Mr. BLACK. Yes, sir.

Dr. GOSAR. So——

Mr. BLACK. That legislation has that statement in it.

Dr. GOSAR [continuing]. So they have been above board the whole time.

Mr. BLACK. That is my understanding, sir.

Dr. GOSAR. Well, the reason I bring that up is that we have a problem in Arizona, that a tribe wasn't very forthcoming, actually lied to the commission in Arizona in regards to buying a piece of property and extending casinos in Phoenix. So that is very important, that they were straightforward.

Chairman Armenta, you have been very forthcoming, as well. You have been more than polite, extending a hand. Is that true?

Mr. ARMENTA. Yes, sir.

Dr. GOSAR. So do you see this as a win-win situation, the potential for a win-win situation?

Mr. ARMENTA. I believe any time two governments work together it is absolutely a win-win for both parties involved.

Dr. GOSAR. Ms. Miyasato—I am probably saying your name wrong, I am sorry—do you see a position for a win-win situation in this?

Ms. MIYASATO. Congressman, I think there is always a chance for a win-win, an opportunity——

Dr. GOSAR. I don't know—don't like that word, "chance." Because it seems to me like you are on the back burner, and they should be on the front burner. So tell me that there is a win-win situation here, because I am about ready to tell you how it can happen.

Ms. MIYASATO. I think there can always be a win-win situation. And——

Dr. GOSAR. And particularly when you have that mind set, right? When you go in with a positive mind set, there are a lot of things that you usually——

Ms. MIYASATO. There is a lot you can do with a positive mind set. You are absolutely right, Congressman.

Dr. GOSAR. Yes. Well, I see a lot of negativity in this process.

I have a tribe in my hometown. It is called the Yavapai Apaches. And what happens, they have an island, and they are surrounded by the Town of Prescott in Prescott Valley. And so, a choice came to this entity about collaborating and working with the tribes, or treating them like what you are doing right now. And it has turned out to be a magical relationship. Because when there is a problem for Prescott and Prescott Valley with the Federal Government, they let the tribes address it. That is unbelievable. And then, when they have the state and local aspects, the city councils and the Board of Supervisors work. They even included them in their economic plan. Yes, they have a casino up on top of the hill, but they are very diversified in their applications now.

Why don't we see something like that in this case?

Ms. MIYASATO. Congressman, I think that—and, again, I am going to give from my experience—the relationship has been inconsistent with the Tribe and the County, so——

Dr. GOSAR. And whose fault is that?

Ms. MIYASATO. I think there is shared responsibility in that. And I think Chairman Armenta talked about the great things that they

have done for the County, the sheriff agreement, the fire agreement. Again, that was a response to their existing reservation, their existing casino. And the fire truck that he mentioned, that was brought up by our fire staff, and not brought up originally by the Tribe, to provide an aerial fire truck to service a tower that is part of the casino expansion. Our staff is the one who brought that up, that wasn't part of the original plans or their mitigation.

And the things that we wanted to continue to talk about, and we asked the Tribe, "That is great, and can we continue talking about these other things that we see as issues," they never came back to us. So I think it is an uneven discussion.

Dr. GOSAR. So let me ask you a question. It seems like, from your standpoint, when I do the background on this, you have delayed and delayed and delayed from the County's perspective. Would you agree with that?

Ms. MIYASATO. From my existing experience, I don't see that we have delayed and delayed. I think——

Dr. GOSAR. Chairman Armenta, would you agree or disagree with that comment?

Mr. ARMENTA. I would have to agree with it, sir.

Dr. GOSAR. OK. So, how do you go forward? I mean you want us to slow this legislation down, and I don't think the Congress wants to do that, because that is our jurisdiction. So how do you see the next time frame, or the next, let's say, 6 months?

Ms. MIYASATO. Congressman, we would like the appeal to proceed, and have those discussions about the issues that we do see with the process and with the fee-to-trust application, and some of the inadequacies that we saw in the environmental impact, or the environmental assessment. Some of the issues that we saw needed to be addressed that weren't addressed. So we would like that process to proceed, so that we, the county, the government, and the local communities can have some more input in discussing those impacts and what we see are issues.

Dr. GOSAR. Chairman Armenta, how do you see the next 6 months?

Mr. ARMENTA. Congressman, I have not seen a change since 1999, when I became Tribal Chairman. I have reached out to the County many times. I will continue to reach out to the County. But, to be perfectly honest, I don't know if the County is going to allow that. So I don't know if I see much change. If there is an opportunity to meet with the County, I will absolutely do that.

Dr. GOSAR. I see it as a possibility here that Congress needs to keep the fire on you guys' feet. And I have done this with the Forest Service in our fire-laden forests in Arizona. So I actually would applaud the folks here to continue pushing this legislation. And I ask you to speed up your negotiation and do it in good faith, because there is a win-win at the end of this tunnel.

So thank you very much, Mr. Chairman.

Mr. YOUNG. I thank the gentleman.

Mr. Denham.

Mr. DENHAM. Thank you, Mr. Chairman.

Ms. Miyasato, in our notes here it says that you are currently getting $82,000 annual for tax revenue on that current piece of property.

Ms. MIYASATO. That is correct, sir.

Mr. DENHAM. And the Tribe is offering a million. Those are correct numbers?

Ms. MIYASATO. I am told the Tribe offered a million some time ago.

Mr. DENHAM. And in this relationship, this government-to-government relationship, this negotiation they are having with the Tribe, what is it you are actually looking for? What are you asking for?

Ms. MIYASATO. The last action of the Board of Supervisors was to ask the Tribe to engage us in a planning process for their housing development and other uses that they asked for on the site.

Mr. DENHAM. Other uses. So you want a greater say over the agricultural part of the land use?

Ms. MIYASATO. We wanted a greater say into the whole development, so part of the application, or part of the initial project alternatives from the Tribe was—one was to have lots of open space, one was to do a community facility and exhibition hall and have some visitor serving kind of uses.

Mr. DENHAM. Do you not want an exhibition hall or another type of facility there?

Ms. MIYASATO. Currently we believe that would have significant impacts to the residents, if it brought 800 visitors to the valley. So we wanted to have more discussions with——

Mr. DENHAM. Well, what impact would it have?

Ms. MIYASATO. Well, one could be traffic, one could be noise, one could be the intersection with the agricultural area. We have these agricultural buffer areas between the commercial or residential areas——

Mr. DENHAM. It is currently in Ag. use now, is it not?

Ms. MIYASATO. It currently is. Yes, sir.

Mr. DENHAM. OK. So further Ag. use is not a problem, is it?

Ms. MIYASATO. Further Ag. use is not a problem, currently.

Mr. DENHAM. OK. And the density of this housing development is less dense than the current housing unit that is adjacent to this property. Is it not?

Ms. MIYASATO. Congressman, could you repeat that?

Mr. DENHAM. There is another piece of property adjacent to this property, where there is a housing development that is more dense than what is actually being proposed by the Tribe.

Ms. MIYASATO. There is a housing development that is one unit per 5 acres to the east, and that was one of the things that the Tribe had proposed, would be a 5-acre——

Mr. DENHAM. I guess what I have continued to not understand over the years—and I think the committee members of this committee are failing to understand—is if the housing development is less dense than the one next to it, if the Ag. use is currently being used for Ag. use, and they are willing to offer more than 10 times what you get in property values today for that tax revenue, what is it you are looking for, other than just holding this issue up?

Ms. MIYASATO. Congressman, some of the issues you raise are significant issues. And on the money, let's talk about that for a second. I am told there was a draft agreement some years ago where that was the offer. That wasn't based on any particular number.

So, in the Lytton agreement, for example, that you are looking at today, they are looking at a percentage. But, we don't know what the number of people per household would be. There is no document that tells us how many new residents are going to be coming. And the Tribe's environmental review said you are not going to have an increase in people, because people who live in the valley will then move——

Mr. DENHAM. Have you been to their current reservation?

Ms. MIYASATO. I am sorry?

Mr. DENHAM. Have you been to their current reservation?

Ms. MIYASATO. Yes.

Mr. DENHAM. Have you seen the housing?

Ms. MIYASATO. I have driven by, yes.

Mr. DENHAM. The HUD housing that is there. I mean do you see that as being acceptable housing? Can you see why they are looking to build new housing elsewhere?

Ms. MIYASATO. I can see why they are looking to build new housing elsewhere, and the County has never said that they shouldn't build new housing. In fact——

Mr. DENHAM. They just took the——

Ms. MIYASATO [continuing]. We invited them to come talk to us about it——

Mr. DENHAM [continuing]. Land into trust through the government-to-government negotiation.

Ms. MIYASATO. I am sorry, Congressman? I am sorry.

Mr. DENHAM. My time is limited. Do you have issues with the current development under the current reservation, developing a larger casino, large hotel, any of their current issues—are there issues that the County has with the development on the current reservation?

Ms. MIYASATO. We did have issues with their expansion plans.

Mr. DENHAM. You did, or do?

Ms. MIYASATO. We do, but it is sort of a moot point at this point.

Mr. DENHAM. Why is it a moot point? You said something in your testimony which got my attention. It seems to me that you are—because we have failed over the years to find any land use issue with the property that they are trying to develop for housing for their individuals, but in your testimony you mentioned that you had concern over the development on their current reservation.

Now, I imagine you can't do much about their current reservation, the current developments there. But because you can hold hostage another piece of property, that gives you leverage to hold up something that may or may not be happening on their current——

Ms. MIYASATO. Congressman, we are not holding up anything on their existing reservation.

Mr. DENHAM. OK. Let me conclude. This is an issue of government-to-government relationships. The Federal Government is going to negotiate, just as you would hope the local government would negotiate in good faith. This is not a geographic issue, any more than the fine folks of Utah and the Red Rock bill that continues to come up every year, with no members of the Utah delegation supporting something that other members continue to try to push, or, in my community, where we need water storage, and we

have a coalition of members that are fighting for water storage, and yet there are members outside of our community that want to stop that water storage.

This is not about a regional issue, as it is about a self-reliance, or a government-to-government negotiation. You either believe in tribal sovereignty—which many members in this body do—or you don't. We believe that we have to make up for the misdeeds of previous Congresses, and misdeeds that have happened to Indian Country throughout the country. And this is one of those ways that, in a government-to-government relationship, in a fight for self-reliance, that this tribe, as well as other tribes, should be able to provide housing, medical facilities, and many other essential necessities to be able to have self-reliance for their tribe. This isn't about gaming. It is about being able to help your family, same way that we want to help our family.

Mr. YOUNG. Thank you.

Mr. DENHAM. We need to correct an injustice, and this is one bill to be able to do that.

Mr. YOUNG. Thank you. I thank the gentleman.

Mrs. Capps.

Mrs. CAPPS. Thank you, Mr. Chairman, and thank you all for your testimony—to our witnesses.

Again, I am pleased to have several constituents here, providing their perspectives on H.R. 1157 and the complex issues involved. But I believe even our witnesses would admit that they do not represent the full array of views on this issue in the Santa Ynez Valley and throughout Santa Barbara County.

As we know, we locals, there are fierce opponents of this bill, strong supporters, and many people in between, who are not necessarily vocal about their views. This diversity of opinion on this local issue cannot fully be represented accurately in this setting, which is one of the many reasons why I oppose the legislation, and oppose it moving forward in this committee.

As I am sure Supervisor Lavagnino and Ms. Miyasato can certainly attest, when these types of local land issues and zoning issues are considered at the county level, the full array of interested parties can participate in the process—and they do—and voice their opinions directly to decisionmakers.

Santa Barbara County has heard from hundreds of local residents in hours and hours of meetings, community forums, and hearings on these issues, as well as considered hundreds of pages of letters, legal filings, and environmental studies. But this diversity of opinion and in-depth debate of the many issues involved in this matter are not a part of today's limited hearing.

H.R. 1157, which impacts only my district, and is being considered today with only the limited views of three witnesses from the area, and questions from a handful of Members of Congress who do not represent the region, and consequently do not fully understand the community or the complexity of the issues at hand. This restrictive process is not how these issues should be resolved.

The BIA fee-to-trust is far from perfect, but it at least does allow for all interested parties to participate and make their voices heard. As I mentioned in my opening statement, the BIA has

approved Camp 4 property being taken into trust, and several appeals of this decision have been filed.

Director Black, my understanding is that these appeals of the Camp 4 decision are being considered under new rules from 2013 that speed up the internal appeals process. Is that true?

Mr. BLACK. Yes——

Mrs. CAPPS. Well, would you explain this new process—maybe some of my colleagues are not familiar with it—under which this particular Camp 4 appeal is now being considered, and the expected timeline going forward?

Mr. BLACK. Yes. The Assistant Secretary, under current regulations, has the ability to take an appeal from the IBIA and issue that decision from his office. So he has exercised that right on this case.

Mrs. CAPPS. OK. And how does the appeals process for Camp 4 differ from the process used to consider the 6.9 acres that the Tribe has been trying to take into trust for well over a decade? Do you expect the Camp 4 appeals to take as long as the 6.9 acres did?

Mr. BLACK. I don't know how much of that time involved in the previous one was under the IBIA and how much of it was at Federal court.

Mrs. CAPPS. Well, can you——

Mr. BLACK. Subsequently, you know——

Mrs. CAPPS. Right.

Mr. BLACK [continuing]. Upon issuing the decision from the Assistant Secretary's office, there is the ability to go to Federal court. That is oftentimes what happens. And, as it was stated earlier, this went on for 14 years.

Mrs. CAPPS. Right. But now there is a consolidated appeal.

Mr. BLACK. There is a consolidated appeal before the Assistant Secretary, yes.

Mrs. CAPPS. Have there been examples that this has been a shorter time frame?

Mr. BLACK. I can't speak to that, right at the moment, no.

Mrs. CAPPS. OK. Well, finally, if H.R. 1157 were enacted, how would it impact the consideration of the pending Camp 4 appeals?

Mr. BLACK. It is my understanding that if this legislation was enacted, it would moot those appeals.

Mrs. CAPPS. So there would be no further opportunity for any local appeals to be considered.

Mr. BLACK. Not through our process, no.

Mrs. CAPPS. I yield back.

Mr. BLACK. That is my understanding.

Mrs. CAPPS. I yield back the balance of my time.

Mr. YOUNG. I thank the good lady.

Mr. Black, again, you just hit a time frame on appeals. It is my understanding, if it goes against the Santa Barbara County, that that could be appealed to a court ruling?

Mr. BLACK. Yes, sir.

Mr. YOUNG. And that would be to, what, a local district court? Or would it be to——

Mr. BLACK. I believe that goes to Federal court, sir.

Mr. YOUNG. And it would be a Federal court, but at a lower court.

Mr. BLACK. I would have to ask my lawyers exactly what the——

Mr. YOUNG. OK. And then, if that was lost, it could be appealed again to a higher court of the lower court?

Mr. BLACK. I have seen that in the past, with——

Mr. YOUNG. So, what we are talking about is 14 years, right? That is really what we are talking about.

Mr. BLACK. Yes, sir.

Mr. YOUNG. OK. If I can—and this is a question—it will be a little short.

Mr. Black, my concern is my bill. We've got a lot about all these other bills, but the villages or the townships and the natives in Southeast Alaska—I am going to go to Mr. Barlow later on—you keep saying, "Aside from precedent, the issue of identifying specific lands and administrative difficulty of conveying lands"—does the Department find any good reason to deny the aboriginal land claims for the five Alaska Native communities?

Mr. BLACK. [No response.]

Mr. YOUNG. What is the precedent? That is what I want to know.

Mr. BLACK. Sir, I am going to defer that question to Mr. Nedd, if that is OK with you.

Mr. YOUNG. You are on the hot seat, bud.

Mr. BLACK. Well, I am sorry, I don't have a——

Mr. YOUNG. No, he can do it.

[Laughter.]

Mr. NEDD. Thank you, Congressman. I am sorry, I didn't get your full question.

Mr. YOUNG. The testimony we have from you is precedent. And I always like that we are in the precedent. There is no such a thing as precedent as the law. We make the law. So, the question is, you use the word "precedent," but is there any good reason to deny the aboriginal land claims of these five native communities?

Mr. NEDD. Well, Congressman, it is my understanding that these five communities previously were found ineligible, and appealed—and three of them appealed that. So, therefore, what the Department is saying, if Congress was to move ahead and determine eligibility when they were ineligible, it would set a precedent, and open it for any other community——

Mr. YOUNG. Only we can open it up.

Mr. NEDD. Well——

Mr. YOUNG. You know, you can see there is no precedent. Only the Congress can do it. And this is not an attempt to open up ANCSA at all. What we are trying to say here is there are reasons why they were not recognized, and why they were denied that recognition through the appeals process, because the law was written in 1971.

But in 1971, when this law was written—and go back and read a little bit of history—the communities involved here all had large, lumbering timbering operations. There was effort put into this Congress at that time not to recognize them because it might have affected the long-term leases of that timber. They were still aboriginal people, they still had a right under the Lands Claims Act, as far as being an aboriginal settlement. And I am suggesting respectfully, is there any other reason, other than precedent? Don't you recognize them as aboriginals?

Mr. NEDD. Congressman, again, right now what we have is the 1971 law that was passed——

Mr. YOUNG. That is right. And we passed that. OK? You admit that. And what we passed, we can rectify. That is our role, as this committee. And they were excluded by Members of Congress at that time because there was an undue pressure put upon those that are not to be recognized that would have affected the leases from the Federal Government—you guys remember, from the Federal Government. It wasn't from the state of Alaska. So they were excluded. What I am trying to do is rectify that.

Now, let's see. Five times—what is it, 27, Mr. Barlow? How many acres by township?

Mr. BARLOW. Congressman, that would be 23,040 acres per township.

Mr. YOUNG. Twenty-three thousand. So we are talking about five. How many acres in the Tongass National Forest, Mr. Black, do you know?

Mr. BLACK. I have it somewhere here——

Mr. YOUNG. It is 17 million.

Mr. BLACK. OK.

Mr. YOUNG. So we are talking about little itty bits to justify the aboriginal right to those lands. And I always worry about this, because there is this—"It is mine." This is the Forest Service, these are the other agencies—"Ours." It was theirs, before. And to take and be this small, and not say it is their right, is wrong. And they are not asking for the barn or the farm. Every other community in the Southeast, every other village, got these lands. But they didn't have this timber interest.

Now we turn around and ruin the timber industry, because you reneged on the—you didn't, but my administration reneged on the long-term leases. And now we have these five communities without land. It just bothers me.

Mr. Barlow—just a moment, I am going to get you right—why did—I think I hit it, but why do you think they didn't give you guys land? And, by the way, most of these Native Land Claims Act started in Wrangell, way back when in 1903. And this was the hotbed of the natives in Southeast Alaska. They were leading forward the brotherhood, and et cetera, and they were left out.

But go ahead, Mr. Barlow.

Mr. BARLOW. Thank you, Mr. Chairman. There has been much speculation over the years, and there certainly is no record of why there was not a conveyance to the five affected communities. There are a lot of suspicions. Of course, the timber contracts that you mentioned, as well as activities by the Forest Service and, in some respects, by the state of Alaska, which didn't view native land ownership in the Southeast as a good thing. Frankly, there was a lot of prejudice in the communities at times, too.

But we really do not know why we were not included. All we know is that the University of Alaska report confirms this, there was nothing on the record. So, therefore, we will continue to pursue resolution of this issue, because the battle isn't over yet.

Mr. YOUNG. All right. I thank you. I can tell you in that period of time a lot of things weren't on the record. Probably some of it should have been.

I just want to thank you. As you know, I have been pursuing this legislation for a long time. And I just wish my administration would—excuse me, not my administration—I wish the Administration would start looking at the amounts of land we are talking about. We had the veterans—"Can't do it. Oh, it is awful." And we have these communities, these small pieces of land. I do not believe in precedent; we set, if there is such a thing, the rules. And don't refer as your lawyer, going back and saying the precedent has been set, because only we can change that, this Congress.

On the issue of the question of Santa Barbara, I am just—I don't know. I just want you to know one thing, young lady. You go back and tell your people this is not new to me. Mrs. Capps mentioned the idea of Elton Gallegly was against it. And we do have a responsibility. And I don't see any effort by anybody—and those Board of Supervisors, other than one—that wants to solve this problem.

I just asked Mr. Black. You are going to appeal it again. Are you not going to appeal it, if you lose?

Ms. MIYASATO. Congressman, I can't presuppose what the Board is going to be doing.

Mr. YOUNG. Well, I can tell you, you are. Like right now.

[Laughter.]

Mr. YOUNG. You probably won't have a job, as CEO. So I am suggesting that either you tell them they better sit down with this chief, or I am moving this bill. It is that simple. Injustice does not pander to those that have, and deprive those that do not have. The right of housing, the right of being able to live under good shelter, is a basic right of every American. And we provided all kinds of public housing for everybody else, and yet this group that wants to build their own housing in the scenic area of a backyard of a lot of other people, this bothers me.

So, you had better tell them that. Because I suggested this to them 5 years ago, 5 years ago. And, as a courtesy, I said, "No, I haven't seen any progress." And I listened to Mr. Seymour there—is it Seymour? Is that his name? What is his name? You know, the supervisor, next to the chief. And it is a pretty damning case. So you better go back and tell your friends that we will, if they don't. It is that simple.

Anybody want to ask any other questions?

[No response.]

Mr. YOUNG. If not, Mr. Denham.

Mr. DENHAM. Just one final question for Mr. Armenta. There is a safety issue I am concerned about, as well. I was surprised to learn that there could be severe fire hazards faced by some of the HUD housing that is currently on the reservation. It is not something that has been talked about yet today.

Mr. ARMENTA. Congressman, when that housing development was designed, it wasn't designed in a manner that would allow for safety equipment to access the streets. They are narrower than a typical street. The housing, where there is multiple housing on one lot, is denser than anywhere else, and it wouldn't allow for public safety departments to access our reservation in a timely manner.

The county-owned road that enters the reservation is even below substandard, when it comes to ingress and egress for emergency vehicles.

Mr. DENHAM. Thank you. Mr. Chairman, I yield back.

Mr. YOUNG. Mr. LaMalfa.

Mr. LAMALFA. Thank you, Mr. Chairman. You know, I have toured the area. My son went to college down in the general area, as I did years ago, as well. So, we have a connection. But more so, it is important that we in Congress back up, basically, our oath to preserve constitutional ideals. And that would be freedom, that would be property rights, and that would be the ability to exercise your ability to use your land and do things as you see fit. So we know we have constraints with planning and local government, and I respect that, I greatly respect that.

But we hear, again, an unyielding roadblock by the local government to have a dialog, really. So, Mr. Chairman, I appreciate your stern suggestion to the County that they step up here, that we do have a piece of legislation that we will continue to be pursuing in this process.

But I think what everybody needs to recognize here is that the County actually will do better under this legislation than the open-endedness of what a BIA decision would do. The legislation provides for certain aspects that the County can predict, whereas the Tribe wouldn't necessarily have to do certain things under a BIA decision. So there is really not a downside for the County, other than maybe they enjoy being a roadblock, for whatever reason. And that is not right, because I work very well with my counties up in the north, and they are by and large very willing to come together and have great relationships with the tribes, and see that there is a mutual benefit. Mr. Gosar mentioned that a little bit ago, as well.

So, I don't know that that is the direction CSAC likes to go, but this seems to be unique. So I appreciate the attitude and the direction that Supervisor Lavagnino wanted to take this, as well. And, again, for your travel, Chairman Armenta, for your patience and the patience of the people you represent to get here, to be here, and to work.

And for Ms. Miyasato, I hope you really have heard loud and clear what the attitude of this subcommittee is today, and that you will take that back, along with your supervisor, and if there is something to be done locally, really reflect upon that and show that there has been a wrong done for a long time here with delays that are unnecessary, and do the right thing. Your county will come out better with our legislative process than by what could happen in an open-ended one.

Mr. Chairman, with that, I will yield back.

Mr. YOUNG. Thank you. I have one question to the Chairman again.

When did you buy this land?

Mr. ARMENTA. We bought this land 5 years ago.

Mr. YOUNG. Five years ago. Was it up for public auction?

Mr. ARMENTA. No, sir, it wasn't.

Mr. YOUNG. Did you have an inroad, or—I mean how did this work out?

Mr. ARMENTA. The previous owner was Mr. Fess Parker, who was a personal friend of mine and a personal acquaintance, along with his son. On his death bed, he told his children he wants this land to go back to the Tribe.

Mr. YOUNG. So it was Fess Parker who did this.
Mr. ARMENTA. Yes, sir.
Mr. YOUNG. OK. I think that is good. That is good to know. Fess Parker, I like that idea. He had a good idea about culture. He had a good idea about justice. So—never mind, I won't go into it.
Any other questions?
[No response.]
Mr. YOUNG. If not, the committee is adjourned.
[Whereupon, at 12:51 p.m., the subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE COMMITTEE'S OFFICIAL FILES]

H.R. 1157

- August 20, 2013, Santa Barbara Board of Supervisors, Minutes from Board of Supervisors meeting. 35 pages.
- June 6, 2015, Santa Barbara County GIS Data, Exhibit A—Aerial Vicinity Parcel Map, Santa Ynez Camp 4. 1 page.
- June 11, 2015, Mr. Brian Kramer, Santa Ynez, CA, Letter to Chairman Young. 3 pages.
- June 12, 2015, C. David and M. Andriette Culbertson, Letter to Chairman Young in regards to proposed legislation. 3 pages.
- June 12, 2015, Mr. Thomas P. Walters, County of Santa Barbara, Board of Supervisors, Comments in opposition to proposed legislation. 1 page.
- June 30, 2015, Mr. Brian Kramer, Santa Ynez, CA, Letter to Chairman Young. 2 pages.
- July 1, 2015, Cappello & Noel LLP, A. Barry Cappello, Comments on proposed legislation. 47 pages.

H.R. 2386

- April 18–21, 2012, Central Council of Tlingit and Haida Indian Tribes of Alaska, Seventy-Seventh Annual Tribal Assembly, Juneau, Alaska, Resolution TA/12–41, "Support for 'Landless' Alaska Native Communities." 2 pages.
- April 17–20, 2013, Central Council of Tlingit and Haida Indian Tribes of Alaska. Seventy-Eighth Annual Tribal Assembly, Juneau, Alaska, Resolution TA/13–40, "Support of the Landless Southeast Alaska Native Communities Seeking Legislation to Form Alaska Native Claims Settlement Act (ANSCA) Corporations and Receive ANCSA Benefits." 2 pages.
- April 9–12, 2014, Central Council of Tlingit and Haida Indian Tribes of Alaska. Seventy-Ninth Annual Tribal Assembly, Juneau, Alaska, Resolution TA/14–32, "Support of the Landless Southeast Alaska Native Communities to Form Alaska Native Claims Settlement Act (ANSCA) Corporations." 3 pages.

- October 8–11, 2014, Alaska Native Brotherhood & Alaska Native Sisterhood Grand Camp, Resolution No. 14–08, "Support all Southeast Alaska Native Communities and their Descendants from the failures of the Alaska Native Claims Settlement Act (ANCSA) to include Land Selection Rights and Compensation." 2 pages.
- April 15–17, 2015, Central Council of Tlingit and Haida Indian Tribes of Alaska, Eightieth Annual Tribal Assembly, Juneau, Alaska, Resolution TA/15—19, "Support of the Unrecognized Southeast Alaska Native Communities Seeking Legislation to Allow Them to Form Alaska Native Claims Settlement Act (ANCSA) Corporations and Receive ANCSA Benefits." 2 pages.
- June 16, 2015, Southeast Alaska Conservation Council, Statement for the record on H.R. 2386. 4 pages.
- June 16, 2015, Various letters to the Chairman from residents of Tenakee, Alaska in opposition to H.R. 2386. 8 pages.
- June 18, 2015, Christie Lee (Dailey) Jamieson, Wrangell Landless Tribal Member, Letter to Chairman Young in support of H.R. 2386. 1 page.
- June 19, 2015, Ms. Joyce Ruth Freiberg, Letter to Chairman Young in support of H.R. 2386. 1 page.
- June 24, 2015, Sealaska Corporation, Mr. Anthony Mallott, President & CEO, Statement for the record in support of H.R. 2386. 3 pages.
- June 25, 2015, Richard 'Tashee' Rinehart, Letter to Chairman Young. 6 pages.
- June 30, 2015, Grand Camp Alaska Native Brotherhood, Mr. Bradley J. Fluetsch, CFA, ANB Executive Committee, Chair Landless Committee, Letter to Chairman Young in support of H.R. 2386. 1 page.
- July 1, 2015, Central Council of Tlingit and Haida Indian Tribes of Alaska, Mr. Richard J. Peterson, President, Letter to Chairman Young in support of H.R. 2386. 3 pages.
- July 1, 2015, National Congress of American Indians, Letter to Chairman Young in support of H.R. 2386. 4 pages.
- July 24, 2015, Senator Bert K. Stedman, Alaska State Legislature, Letter to Chairman Young in support of H.R. 2386. 2 pages.

H.R. 2538

- May 27, 2015, Governor Edmund G. Brown, Jr., Office of the Governor of California, Letter to Congressman Jared Huffman expressing support for H.R. 2538. 1 page.
- June 14, 2015, Michael Robinson and Eric Wee, Testimony submitted to Chairman Young in opposition of H.R. 2538. 18 pages.
- June 15, 2015, Thane Young, Vice President, Van Scoyoc Associates, Letter to Chairman Young in support of H.R. 2538. 1 page.

- June 16, 2015, Craig Curreri, Vice President of the Board, Windsor Fire Protection District, Letter to Representative Jared Huffman in support of H.R. 2538. 1 page.
- June 26, 2015, Brent Gudzus, Letter to Chairman Young in opposition of H.R. 2538. 1 page.
- June 27, 2015, Margaret Rouse, Letter to Chairman Young in opposition of H.R. 2538. 2 pages.
- June 27, 2015, C. Stan Shusda, Letter to Chairman Young in opposition of H.R. 2538. 1 page.
- June 28, 2015, Robert E. Hopkins, Letter to Chairman Young in opposition of H.R. 2538. 2 pages.
- June 28, 2015, Richard Mendelsohn, Letter to the Chairman in opposition of H.R. 2538. 2 pages.
- June 28, 2015, Debbie Paulsen, Letter to the Chairman in opposition of H.R. 2538. 2 pages.
- June 28, 2015, Jenny Whalen, Letter to the Chairman in opposition of H.R. 2538. 1 page.
- June 29, 2015, Ms. Candise Alvarez, Letter to Chairman Young in opposition of H.R. 2538. 2 pages.
- June 29, 2015, Mariela P. Au and the Au Family, Letter to Chairman Young in opposition of H.R. 2538. 1 page.
- June 29, 2015, Whitney Hopkins, Letter to Chairman Young in opposition of H.R. 2538. 3 pages.
- June 29, 2015, Janice Mascadri, Letter to Chairman Young in opposition of H.R. 2538. 3 pages.
- June 29, 2015, Barbara Mendelsohn, Letter to the Chairman in opposition of H.R. 2538. 2 pages.
- June 30, 2015, Peg Champion, Letter to the Chairman in opposition of H.R. 2538. 2 page.
- June 30, 2015, Karen Dubrule, Ed. D., Letter to the Chairman in opposition of H.R. 2538. 2 pages.
- June 30, 2015, Jennifer Ramirez, Letter to the Chairman in opposition of H.R. 2538. 1 page.
- July 1, 2015, Sheri R. Greene, Letter to Chairman Young in opposition of H.R. 2538. 2 pages.
- July 1, 2015, Robb & Ross, Testimony for the Record on H.R. 2538. 19 pages.
- July 1, 2015, John Stayton, Letter to Chairman Young in opposition of H.R. 2538. 1 page.